PB83-127092

Regulations and Non-Regulatory Revisions to State Implementation Plan: New Mexico

Atlantic Environmental Associates, Inc.
Waltham, MA

Prepared for

Environmental Protection Agency
Research Triangle Park, NC

Oct 81

U.S. Department of Commerce
National Technical Information Service
NTIS

United States
Environmental Protection
Agency

Office of Air Quality
Planning and Standards
Research Triangle Park NC 27711

EPA-450/2-81-051
July 1981

PB83-127092

Air

Regulations and Non-Regulatory Revisions to State Implementation Plan: New Mexico

REPRODUCED BY
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA 22161

EPA-450/2-81-051

Regulations and Non-Regulatory Revisions to State Implementation Plan: New Mexico

By

Atlantic Environmental Associates, Inc.
59 Vernon Street
Waltham, MA 02154

Contract No. 68-02-3565

EPA Project Officer: Willis P. Beal

Prepared for

U.S ENVIRONMENTAL PROTECTION AGENCY
Control Programs Development Division
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

July 1981

TECHNICAL REPORT DATA
(Please read Instructions on the reverse before completing)

1. REPORT NO.
EPA-450/2-81-051

2.

3. RECIPIENT'S ACCESSION NO.
PB83 127092

4. TITLE AND SUBTITLE
Regulations and Non-Regulatory Revisions to State Implementation Plan: New Mexico

5. REPORT DATE
October, 1981

6. PERFORMING ORGANIZATION CODE

7. AUTHOR(S)

8. PERFORMING ORGANIZATION REPORT NO.

9. PERFORMING ORGANIZATION NAME A[illegible]DDRESS
Atlantic Environmental Associates, Inc.
59 Vernon Street
Waltham, MA 02154

10. PROGRAM ELEMENT NO.

11. CONTRACT/GRANT NO.
68-02-3565

12. SPONSORING AGENCY NAME AND ADDRESS
Control Programs Development Division
Office of Air Quality Planning and Standards
Research Triangle Park, NC 27711

13. TYPE OF REPORT AND PERIOD COVERED

14. SPONSORING AGENCY CODE

15. SUPPLEMENTARY NOTES
EPA Project Officer: Willis P. Beal

16. ABSTRACT

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA-approved State and/or local air pollution control regulations cited by reference in the Federal Register; regulations promulgated as of August 1, 1981 have been included in this document.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979. State and/or local air quality regulations which have not been Federally approved as of August 1, 1981, are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations. A summary sheet of the regulatory revisions is provided to give a quick historical assessment of the changes.

The second part of the document contains the text of non-regulatory SIP revisions approved by EPA up to August 1, 1981, excluding notices or certifications of public hearings and technical support data. A complete tabulation of these revisions is also provided.

17. KEY WORDS AND DOCUMENT ANALYSIS

a. DESCRIPTORS	b. IDENTIFIERS/OPEN ENDED TERMS	c. COSATI Field/Group
Air Pollution State Regulations State Implementation Plans		

18. DISTRIBUTION STATEMENT	19. SECURITY CLASS *(This Report)*	21. NO. OF PAGES
Release Unlimited	Unclassified	100
	20. SECURITY CLASS *(This page)*	22. PRICE
	Unclassified	

EPA Form 2220-1 (Rev. 4-77) PREVIOUS EDITION IS OBSOLETE

This report has been reviewed by the Control Programs Development Division of the Office of Air Quality Planning and Standards, EPA, and approved for publication. Mention of trade names or commercial products is not intended to constitute endorsement or recommendation for use. Copies of the entire document are available for inspection and copying at EPA Headquarters (401 M Street SW, Washington, DC 20460), EPA's Office of Air Quality Planning and Standards (Room 826, 411 West Chapel Hill Street, Durham, NC 27701), and the appropriate EPA Regional Offices. Documents containing only the regulatory portions of each State Implementation Plan may be ordered for a nominal fee from the National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

PREFACE

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA approved State and/or local air pollution control regulations cited by reference in the Federal Register; all regulations Federally promulgated as of August 1, 1981 have been included.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979.* State and/or local air quality regulations which have not been Federally approved as of August 1, 1981 are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State or local agencies to enforce such regulations.

This document is not intended to provide a tool for determining the enforceability of any given regulation. Rather, it is intended to provide a comprehensive compilation of those regulations which are incorporated by reference into Title 40, Part 52, of the Code of Federal Regulations (CFR). The exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation in this document does not, in itself, render the regulation enforceable by either the State or EPA.

The regulations have been organized in this document according to the official State/local agency format. However, since State air quality regulations vary widely in their organization, content, and language, a standardized subject index has been added. The index listings consist of both pollutant and activity oriented categories to facilitate usage. For example, regulations which apply to copper smelters may be found under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State are not included herein but can be found under Title 40 Code of Federal Regulations, Part 52.

Additionally, a summary sheet of the regulatory revisions is included to provide a quick historical assessment of the changes. These summary sheets contain the date of submittal to EPA of each revision and the Federal Register publication date on which the revision was approved by EPA. A brief description of the regulation which was submitted is also included.

In accordance with the Act, the second part of the document contains non-regulatory SIP revisions approved by EPA up to August 1, 1981. All approved non-regulatory revisions listed under Identification of Plan in the CFR are included except notices or certifications of public hearings, and technical support data. Non-regulatory submittals which have only received EPA approval on selected elements are included in their entirety with an accompanying indication of the status of Federal actions on the non-approved elements. The non-regulatory revisions have been organized in this document according to the date of publication of EPA approval in the Federal Register. For historical completeness, a complete tabulation of these revisions is provided at the beginning of this second section.

---

* Regulations and Non-Regulatory Revisions to State Implementation Plan: New Mexico, EPA-450/2-80-038, prepared under Contract 68-02-3388, July 31, 1980.

SUMMARY OF
EPA-APPROVED REGULATORY REVISIONS TO STATE OF NEW MEXICO SIP
BETWEEN JULY 1, 1979 AND JULY 31, 1981

Publication of Approval	Submittal Date	Page	Document Description
04/10/80	01/23/79	45FR24468	Revisions to Regulations 506, 509, 510, 511.652 and 602.
03/26/81	01/23/79	46FR18694	Section 20 of the Albuquerque - Bernalillo County Regulations relating to New Source Review.
03/26/81	03/17/80	46FR18694	I/M Ordinance.

TABLE OF CONTENTS

STATE REGULATIONS

Revised Standard Subject Index	Regulation Number	Title	Page
(1.0)	100	Definitions	1
(2.0)	200	Preamble	4
(4.0)	201	Ambient Air Quality Standards	5
(51.13)	301	Regulation to Control Open Burning	6
(50.1.2)	401	Regulation to Control Smoke	8
(51.20)	402	Regulation to Control Wood Waste Burners	9
(50.1)	500	Regulations Governing Emission of Particulate Matter	9
(51.8)	501	Asphalt Process Equipment	9
(51.3)	502	Cement Kilns	11
(51.3)	503	Gypsum Processing Plants	11
(51.3)	504	Particulate Emissions from Coal Burning Equipment	11
(51.21)	505	Pumice, Mica and Perlite Process Equipment	13
(51.21)	506	Non-ferrous Smelters - Particulate Matter	15
(51.5)	507	Oil Burning Equipment - Particulate Matter	16
(51.21)	508	Potash, Salt or Sodium Sulfate Processing Equipment - Particulate Matter	18
(51.21)	509	Lime Manufacturing Plants - Particulate Matter	23

Revised Standard Subject Index	Regulation Number	Title	Page
(51.11)	510	Fugitive Particulate Matter Emissions from Non-Ferrous Smelters	25
(51.21)	511	Fugitive Particulate Matter Emissions from Roads within the Town of Hurley	27
(51.15)	601	Regulation Governing Emission from Kraft Mills	27
(51.6)	602	Coal Burning Equipment - Sulfur Dioxide	28
(51.7)	603	Coal Burning Equipment - Nitrogen Dioxide	32
(51.7)	604	Gas Burning Equipment - Nitrogen Dioxide	32
(51.6)	605	Oil Burning Equipment - Sulfur Dioxide	33
(51.7)	606	Oil Burning Equipment - Nitrogen Dioxide	33
(51.18)	651	Sulfuric Acid Plants - Sulfur	33
(51.11)	652	Non-Ferrous Smelters - Sulfur	34
(5.0)	701	Procedure for Requesting a Variance--Hearing	37
(3.0)	702	Permits	40
(3.0)	703	Registration of Air Contaminant Sources	44
(9.0)	704	Source Surveillance	46
(6.0)	705	Schedules of Compliance	46
(18.0)	706	Air Quality Maintenance Areas	50
(7.0)	801	Upset, Breakdown or Scheduled Maintenance	50

Revised Standard Subject Index	Regulation Number	Title	Page
(4.0)	901	To Control Emissions Leaving New Mexico	51
(9.0)	1001	Sampling Equipment	51
(2.0)	1101	Severibility	51
(2.0)	1201	Effective Date	51
(2.0)	1301	Conflicts	51

ALBUQUERQUE-BERNALILLO COUNTY REGULATIONS

Revised Standard Subject Index	Section Number	Title	Page
(1.0)	1	Definitions	52
(51.13)	2	Open Burning	55
(51.9)	3	Incinerators	55
(50.1.2)	4	Visible Air Contaminants	56
(51.1)	5	Orchard Heaters	57
(12.0)	6	Motor Vehicle Air Pollution Emission Control Devices	58
(50.1)	7	Dust, Sand Particulates	58
(12.0)	7.02	Unpaved Roads	58
(50.1.1)	8	Process Equipment	61
(51.21)	8.02	Gypsum Cookers	62
(51.8)	8.03	Asphaltic Batch Plants	62
(50.14)	9	Kraft Mills	63
(50.4)	10	Control of Hydrocarbons	63
(7.0)	11	Upset, Breakdown or Scheduled Maintenance	64

Revised Standard Subject Index	Section Number	Title	Page
(3.0)	12	Authority to Construct	65
(3.0)	12.03	Fees - Authority to Construct	65
(3.0)	13	Annual Inspection and Registration	67
(2.0) (15.0)	14	Administration and Enforcement	69
(2.0)	15	Repeal	70
(2.0)	16	Savings Clause	70
(2.0)	17	Severability	70
(2.0)	18	Interpretation	70
(2.0)	19	Applicability	70
(3.0)	20	Permits	71

ALBUQUERQUE - MOTOR VEHICLE EMISSIONS CONTROL ORDINANCE

Revised Standard Subject Index	Section Number	Title	Page
(12.0)	1	Short Title	76
(2.0)	2	Legislative Findings and Purpose of Ordinance	76
(1.0)	3	Definitions	76
(12.0)	4	Creation of an Inspection-Maintenance Program	78
(15.0)	5	Duties and Powers of the Board	79
(15.0)	6	Powers and Duties of the Department	79
(2.0)	7	Inspection Criteria	80
(2.0)	8	Fleet Inspection Provision	80
(2.0)	9	Contract Authorization	81

Revised Standard Subject Index	Section Number	Title	Page
(15.0)	10	Acquisition of Property: Emissions Inspection Certificates are Property of City	82
(15.0)	11	Improper Representation	83
(15.0)	12	Falsification of Certifiecates	83
(15.0)	13	Demand or Collection of Improper Fee	83
(15.0)	14	Compliance with Inspection-Maintenance Program Required	84
(15.0)	15	Enforcement	84
(15.0)	16	Penalties	84
(2.0)	17	Effective Dates	84
(15.0)	18	Severability Clause	84
(15.0)	19	Compilation	84

REVISED STANDARD SUBJECT INDEX

1.0 DEFINITIONS
2.0 GENERAL PROVISIONS AND ADMINISTRATIVE PROCEDURES
3.0 REGISTRATION CERTIFICATES, OPERATING PERMITS AND APPLICATIONS
4.0 AIR QUALITY STANDARDS (PRIMARY AND SECONDARY)
    4.1 PARTICULATES
    4.2 SULFUR DIOXIDE
    4.3 NITRIC OXIDES
    4.4 HYDROCARBONS
    4.5 CARBON MONOXIDE
    4.6 OXIDANTS
    4.7 OTHERS
5.0 VARIANCES
6.0 COMPLIANCE SCHEDULES
7.0 EQUIPMENT MALFUNCTION AND MAINTENANCE
8.0 EMERGENCY EPISODES
9.0 AIR QUALITY SURVEILLANCE AND SOURCE TESTING
10.0 NEW SOURCE PERFORMANCE STANDARDS
11.0 NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS
12.0 MOTOR VEHICLE EMISSIONS AND CONTROLS
13.0 RECORD KEEPING AND REPORTING
14.0 PUBLIC AVAILABILITY OF DATA
15.0 LEGAL AUTHORITY AND ENFORCEMENT
16.0 HEARINGS, COMPLAINTS, AND INVESTIGATIONS
17.0 PREVENTION OF SIGNIFICANT DETERIORATION
18.0 AIR QUALITY MAINTENANCE AREA
19.0 EMISSION OFFSET POLICY
20.0 MAJOR STATIONARY SOURCES
21.0 - 49.0
RESERVED FOR FUTURE EXPANSION OF COMMON INDEX
50.0 POLLUTANT - SPECIFIC REGULATIONS
    50.1 PARTICULATES

        50.1.1 PROCESS WEIGHT
        50.1.2 VISIBLE EMISSIONS
        50.1.3 GENERAL
    50.2 SULFUR COMPOUNDS
    50.3 NITRIC OXIDES
    50.4 VOLATILE ORGANIC COMPOUNDS
    50.5 CARBON MONOXIDE
    50.6 ODOROUS POLLUTANTS
    50.7 OTHERS (Pb, Hg, etc.)
51.0 SOURCE CATEGORY SPECIFIC REGULATIONS
    51.1 AGRICULTURAL PROCESSES (includes Grain Handling, Orchard Heaters, Rice and Soybean Facilities, Related Topics)
    51.2 COAL OPERATIONS (includes Cleaning, Preparation, Coal Refuse Disposal Areas, Coke Ovens, Charcoal Kilns, Related Topics)
    51.3 CONSTRUCTION (includes Cement Plants, Materials Handling, Topics Related to Construction Industry)
    51.4 FERROUS FOUNDRIES (includes Blast Furnaces, Related Topics)
    51.5 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - Particulates (includes Fuel Content and Other Related Topics)
    51.6 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - SO_2 (includes Fuel Content and Other Related Topics)
    51.7 FUEL BURNING EQUIPMENT (oil, natural gas, coal) - NO_2 (includes Fuel Content and Other Related Topics)
    51.8 HOT MIX ASPHALT PLANTS
    51.9 INCINERATION
    51.10 NITRIC ACID PLANTS
    51.11 NON-FERROUS SMELTERS (Zn, Cu, etc.) - Sulfur Dioxide
    51.12 NUCLEAR ENERGY FACILITIES (includes Related Topic)
    51.13 OPEN BURNING (includes Forest Management, Forest Fire, Fire Fighting Practice, Agricultural Burning and Related Topics)
    51.14 PAPER PULP; WOOD PULP AND KRAFT MILLS (includes Related Topics)
    51.15 PETROLEUM REFINERIES
    51.16 PETROLEUM STORAGE (includes Loading, Unloading, Handling and Related Topics)
    51.17 SECONDARY METAL OPERATIONS (includes Aluminum, Steel and Related Topics)
    51.18 SULFURIC ACID PLANTS

51.19 SULFURIC RECOVERY OPERATIONS
51.20 WOOD WASTE BURNERS
51.21 MISCELLANEOUS TOPICS
51.22 COATING OPERATIONS (Can, Coil, Paper, Fabric, Vinyl, Metal, Wire, Surface Coating)
51.23 CUTBACK ASPHALT
51.24 SOLVENT METAL CLEANING

(1.0) 100. DEFINITIONS. -- As used in these regulations:

A. "board" means the environmental improvement board;

B. "department" means the environmental improvement agency;

C. "director" means the director of the environmental improvement agency;

D. "person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representatives, agents or assigns;

E. "hydrogen sulfide" means the chemical compound containing two atoms of hydrogen and one of sulfur which as a gaseous air contaminant may be determined by the methylene blue method for total sulfides as described and published in the article in the periodical Analytical Chemistry, Volume 29, No. 9, September 1957, pages 1349-1351 entitled, "Ultramicro-determination of sulfides in Air," published by the American Chemical Society, 20th & Northampton Street, Easton, Pennsylvania, or determined by any other method that provides equal or greater precision.

F. "sulfur dioxide" means the chemical compound containing one atom of sulfur and two of oxygen which as a gaseous air contaminant may be determined by the West and Gaeke Method as described and published in the article in U.S. Public Health Service Publication No. 999-AP-11, May 1965, entitled "Selected Method for the Measurement of Air Pollutants" pages A-1 through A-5, as published by the Publication Office of the Robert A. Taft Sanitary Engineering Center, Cincinnati, Ohio, or determined by any other method that provides equal or greater precision. Sulfur dioxide includes other oxides of sulfur, such as sulfur trioxide, which may test as sulfur dioxide;

G. "carbon monoxide" means the chemical compound containing one atom of carbon and one of oxygen which as a gaseous air contaminant may be determined by the nondispersive infrared method described in Appendix C of the Federal Register, Volume 36, No. 21, Saturday, January 30, 1971, pages 1509-1510, or determined by any other method that provides equal or greater precision;

H. "nitrogen dioxide" means the chemical compound containing one atom of nitrogen and two of oxygen which as a gaseous air contaminant may be determined by the Saltzman Method as described and published in "Selected Methods for the Measurement of Air Pollutants," U.S. Public Health Service Publication No. 999-AP-11, May 1965, Pages C-1 through C-7, published by the Publication Office of the Robert A. Taft Sanitary Engineering Center, Cincinnati, Ohio, or determined by any other method that provides equal or greater precision. Nitrogen dioxide includes other oxides of nitrogen, such as nitric oxide, which may test as nitrogen dioxide;

I. "photochemical oxidants" means that gaseous air contaminant determined by the neutral Buffered-Potassium Iodide method as described and published in "Selected Methods for the Measurement of Air Pollutants," U.S. Public Health Service Publication No. 999-AP-11, May 1965, pages D-1 through D-5, published by the Publication Office of the Robert A. Taft Sanitary Engineering Center, Cincinnati, Ohio, or determined by any other method that provides equal or greater precision;

J. "hydrocarbons" means that gaseous air contaminant, expressed as methane equivalents, determined by the flame ionization method and corrected for methane in the sampled air, described in Appendix E of the Federal Register, Volume 36, No. 21, Saturday, January 30, 1971, pages 1512-1513, or determined by any other method that provides equal or greater precision;

K. "heavy metal" means any metal having an atomic number greater than 21;

L. "asbestos" includes chrysotile, crocidolite, amosite, anthophylite, tremolite and actinolite;

M. "total reduced sulfur" means any combination of sulfur compounds, except sulfur dioxide and free sulfur, which test as total reduced sulfur, including but not limited to hydrogen sulfide, methyl mercaptan, and ethyl mercaptan;

N. "total suspended particulate" means that airborne particulate matter determined by the methods described and published in the article in the Journal of the Air Pollution Control Association, Volume 17, No. 1, January 1967, pages 17-25 entitled "Recommended Standard Method for Atmospheric Sampling of Fine Particulate Matter by Filter Media-High-volume-Sampler", as published by the Air Pollution Control Association, 4400 Fifth Avenue, Pittsburgh, Pennsylvania, or determined by any other method that provides equal or greater precision;

O. "cohs" means coefficient of haze units used in expressing soiling index;

P. "soiling index" means the index of airborne particulates expressed in cohs determined by the monitoring and light transmission methods described in the article in the Journal of Air Pollution Control Association, Volume 13, No. 9, September 1963, pages 397-402, entitled "Recommended Standard Method for Continuing Air Monitoring for Fine Particulate," as published by the Air Pollution Control Association, 4400 Fifth Avenue, Pittsburgh, Pennsylvania;

Q. "lead" means that particulate air contaminant determined by the method described and published in the article in the American Industrial Hygiene Association Journal, September-October, 1963, pages 481-491, entitled "The U.S. Public Health Service Method for Determination of Lead in Air and Biological Materials," as published by the American Industrial Hygiene Association, 25711 Southfield Road, Southfield, Michigan, and analyzed by atomic absorption spectrophotometry, or determined by any other method that provides equal or greater precision;

R. "particulate matter" means any airborne material except uncombined water which is often, but not always, suspended in air or other gases at atmospheric temperature and pressure;

S. "ppm" means parts per million by volume;

T. "$\mu g/m^3$" means micrograms per cubic meter;

U. "mg/m^3" means milligrams per cubic meter;

V. "fugitive dust" means solid airborne particulate matter emitted as a result of the processing operation from any source, including waste piles, other than a flue;

W. "Kraft pulp" means the fibrous cellulose material produced in a Kraft mill;

X. "Ringelmann scale" means the grading of opacity, appearance, density or shade of a smoke emission, as described in the text Air Pollution, Volume II, Chapter 29, pages 537-560, by Paul W. Purdom, 2nd edition, 1968 (A. C. Stern, editor);

Y. "schedule of compliance" means a schedule or timetable acceptable to the board, which clearly sets out in detail the steps to be taken in achieving the objectives of a regulation or standard;

Z. "smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, soot and combustible material;

AA. "wood waste burner" means any device used for disposing of wood wastes including but not limited to a wigwam type burner;

BB. "flue" means any duct for air, gases or the like, such as a stack or chimney; and

CC. "open burning" means any manner of burning, not in a device or chamber designed to achieve complete combustion, where the products of combustion are emitted, directly or indirectly, into the open air.

DD. "gasification plant" means a plant that manufactures synthetic gas and includes: all process gas streams and products produced in the gasification process; all operations associated with treatment of gasification products; ash removal equipment; regeneration of any absorbent or oxidizing agents (and any off gases so produced) used in the treatment or removal of products produced in the gasification process; catalyst regeneration; storage facilities for liquids, solids and gases; and pretreatment of coal. Gasification plant does not include the coal preparation plant, the sizing and briqueting of coal or any process gas streams after the streams enter a boiler and undergo combustion;

EE. "existing petroleum processing facility" means any petroleum refinery or natural gas processing plant the fabrication, erection, or installation of which was commenced prior to July 1, 1974. It does not include tank batteries, separators, heater-treaters or field compressors;

FF. "new petroleum processing facility" means any petroleum refinery, natural gas processing plant, or part thereof, the fabrication, installation, or modification of which is commenced on or after July 1, 1974. It does not include tank batteries, separators, heater-treaters or field compressors;

GG. "existing petroleum refinery" means a petroleum refinery the fabrication, erection or installation of which was commenced prior to July 1, 1974, and includes all vessels, boilers, heaters, condensers, cracking units, regeneration units, sour water strippers, wastewater separators, storage and loading facilities, sulfur recovery facilities, flares and other facilities inter-connected in their processing operations and used in the processing of crude oil, condensate, pentanes, butanes, or similar substances for the purpose of producing gasoline, fuel oil, jet fuel, diesel, asphalt or similar substances. Petroleum refinery does not include natural gas processing plants;

HH. "new petroleum refinery" means a petroleum refinery or part thereof the fabrication, erection, installation or modification of which is commenced on or after July 1, 1974, and includes all vessels, boilers, heaters, condensors, cracking units, sweetening units, regenerating units, sour water strippers, wastewater separators, storage and loading facilities, sulfur recovery facilities, flares and other facilities inter-connected in their processing operations and used in the processing of crude oil, condensate, pentanes, butanes or similar substances for the purpose of producing gasoline, fuel oil, jet fuel, diesel, asphalt or similar substances. Petroleum refinery does not include natural gas processing plants;

II. "existing natural gas processing plant" means a natural gas processing plant the fabrication, erection or installation of which was commenced prior to July 1, 1974, and includes all vessels, boilers, heaters, compressors (engines and turbines), sweetening and regenerating units, dehydration units, piping, storage and loading facilities, sulful recovery facilities, flares and any other facility connected with the processing or storage of field gas, sour residue gas, and other hydrocarbons associated with field gas; and

JJ. "new natural gas processing plant" means a natural gas processing plant or part thereof the fabrication, erection, installation or modification of which is commenced on or after July 1, 1974, and includes all vessels, boilers, heaters, compressors (engines and turbines), sweetening and regenerating units, dehydration units, piping, storage and loading facilities, sulfur recovery facilities, flares and any other facility connected with the processing or storage of field gas, sour residue gas and other hydrocarbons associated with field gas.

200. Preamble

Ambient Air Quality Standards are not intended to provide a sharp dividing line between air of satisfactory quality and air of unsatisfactory quality. They are, however, numbers which represent objectives that will preserve our air resource.

It is understood that at certain times, due to unusual meteorological conditions, these standards may be exceeded for short periods of time without the addition of specific pollutants into the atmosphere. The adoption of these statewide ambient air quality standards does not prohibit the promulgation of standards for specific areas, functions, and conditions within the state such as air sheds, municipalities, and certain counties, as authorized under the Act.

As scientific data accumulates on the effects of a contaminant, these standards may be revised or additional standards added.

201. Ambient Air Quality Standards

A. The maximum allowable concentrations of total suspended particulate in the ambient air are as follows:

	Maximum Concentration
1. 24 hour average	150 $\mu g/m^3$
2. 7 day average	110 $\mu g/m^3$
3. 30 day average	90 $\mu g/m^3$
4. annual geometric mean	60 $\mu g/m^3$

B. When one or more of the following elements are present in the total suspended particulate, the maximum allowable concentrations of the elements involved, based on a thirty day average, are as follows:

	Maximum Concentration
1. beryllium	0.01 $\mu g/m^3$
2. asbestos	0.01 $\mu g/m^3$
3. heavy metals (total combined)	10 $\mu g/m^3$

C. The maximum allowable concentrations of the following air contaminants in the ambient air are as follows:

	Maximum Concentration
1. sulfur dioxide	
(a) 24 hour average	0.10 ppm
(b) annual arithmetic average	0.02 ppm
2. hydrogen sulfide (1 hour average)	0.003 ppm
3. total reduced sulfur (1 hour average)	0.003 ppm

	Maximum Concentration
4. carbon monoxide	
(a) 8 hour average	8.7 ppm
(b) 1 hour average	13.1 ppm
5. nitrogen dioxide	
(a) 24 hour average	0.10 ppm
(b) annual arithmetic average	0.05 ppm
6. photochemical oxidants (1 hour average)	0.06 ppm
7. non-methane hydrocarbons (3 hour average)	0.19 ppm

D. On an annual average, the soiling index shall not exceed 0.4 coh/1000 linear feet of air.

301. Regulation to Control Open Burning

A. Except as otherwise provided in this regulation, no person shall permit, cause, suffer or allow open burning.

B.

1. Open burning is permitted for recreational and ceremonial purposes, for barbecuing, for heating purposes in fireplaces, for the non-commercial cooking of food for human consumption and for warming by small wood fires at construction sites.

2. Open burning of natural gas is permitted at gasoline plants and compressor stations and when used or produced in drilling, completion and workover operations on oil and gas wells when necessary to avoid serious hazard to safety.

3. Open burning of explosive materials is permitted where the transportation of such materials to other facilities could be dangerous.

C. Subject to the conditions contained in Subsection E, open burning of refuse is permitted in communities having:

1. a population of less than 3000; and

2. no public refuse collection service or the economic means of obtaining or establishing one.

Subsection C does not apply to any kind of salvage operation or to any person to whom a collection service is available.

D. Subject to the conditions contained in Subsection E, open burning is permitted for the following purposes:

1. disposal of fully dried tumbleweeds; and

2. agricultural management, excluding timber, directly related to the growing or harvesting of crops.

E. Any open burning permitted under Subsections C and D must be maintained under the following conditions:

1. the emission of smoke shall not be allowed to pass onto or across a public road or landing strip such that a hazard is created by impairment of visibility;

2. no natural or synthetic rubber or petroleum products may be burned. For the purpose of frost control in agricultural operations, natural petroleum products may be burned;

3. care must be taken to minimize the amount of dirt on the material being burned;

4. all burning, except agricultural burning, must take place between the hours of 10:00 a.m. and 4:00 p.m.;

5. the material to be burned must be as dry as possible; and

6. the wind direction at the site of agricultural burning must be such that the smoke will generally be carried away from areas of human habitation.

F. Subject to whatever conditions the department may impose, open burning is permitted for the following purposes when a permit is obtained from the department: weed abatement; prevention of fire hazards; disposal of dangerous materials; instruction and training of bona fide fire-fighting and fire rescue personnel; civil defense; conservation; game management; disease and pest control; land clearance for highway construction; forestry management; control of vegetation in irrigation ditches and canals; clearance and maintenance of watercourses and flood control channels to eliminate flood hazards; disposal of hydrocarbons spilled or lost from pipeline breaks or other transport failure; and other special circumstances.

G. A permit to burn shall not be issued if the department determines that:

1. a practical alternative to burning exists;

2. the health or welfare of any other person may be detrimentally affected; or

3. ambient air quality of other property may be detrimentally affected.

H. Any person seeking a permit to open burn shall do so by submitting a request to the Air Quality Control Unit of the department. The department may require the requestor to submit his request in writing and any or all the following information:

1. the requestor's name, address and telephone number;

2. the location where the burning is to be conducted;

3. the type and quantity of material to be burned;

4. the date when the burning is to be conducted;

5. the methods that will be followed to ignite, maintain and control the burning;

6. reasons why the requestor believes the burning is necessary and

7. the alternatives to burning and the reasons why the requestor believes them not to be feasible.

401. Regulation to Control Smoke

A. Except as provided in Regulations 301 and 402 and the remainder of this regulation, no person shall permit, cause, suffer or allow the emission into the open air of any smoke having a density or shade greater than #1 on the Ringelmann scale for a period or periods aggregating more than one minute in any consecutive thirty minute period.

B. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having a density or shade greater than #1.5 on the Ringelmann scale for any period greater than ten seconds from any diesel-powered vehicle operating below 8,000 feet (mean sea level).

C. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having a density or shade greater than #2 on the Ringelmann scale for any period greater than ten seconds from any diesel-powered vehicle operating above 8,000 feet (mean sea level).

D. This regulation does not apply to:

1. emissions from diesel-powered vehicles if the emissions are a direct result of a cold engine start-up;

2. off-highway, diesel-powered vehicles operating in non-urban areas; and

3. oil well drilling rigs and oil well servicing rigs.

E. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having a density or shade greater than #1 on the Ringelmann Scale for any period greater than ten seconds from any diesel-powered locomotive operating below 8,000 feet (mean sea level).

F. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having a density or shade greater than #2 on the Ringelmann scale for any period greater than ten seconds from any diesel-powered locomotive:

1. operating above 8,000 feet (mean sea level); or
2. involved in switching and railroad yard use.

G. This regulation does not apply to emissions from diesel-powered locomotives if the emissions are a direct result of a cold engine start-up.

402. Regulation to Control Wood Waste Burners

A. Emissions from wood waste burners existing on July 1, 1970, shall not equal or exceed #2 on the Ringelmann scale; or at the discretion of the board, in lieu of Ringelmann measurement, a grain loading of 0.2 grains per standard cubic foot of exhaust gas shall not be equaled or exceeded.

B. Emissions from wood waste burners constructed after July 1, 1970, shall not equal or exceed #1 on the Ringelmann scale; or at the board's discretion, in lieu of Ringelmann measurement, a grain loading of 0.1 grains per standard cubic foot of exhaust gas shall not be equaled or exceeded.

C. After midnight, December 31, 1974, emissions from all wood waste burners shall not equal or exceed #1 on the Ringelmann scale; or at the discretion of the board, in lieu of Ringelmann measurement, a grain loading of 0.1 grains per standard cubic foot of exhaust gas shall not be equaled or exceeded.

D. The temperature of the exiting gases from a wood waste burner shall be not lower than that required to meet the operational requirements of Subsections A, B and C of this section. Each wood waste burner must be equipped with devices which continuously measure and record the temperature of exiting gases of the burner. The temperature measuring device shall be located within three (3) feet of the top of a wood waste burner at a horizontal position 90° either side of the waste induction feed mechanism. The owner or operator of the wood waste burner must maintain the records of the temperature recording device for such time and in such manner as the department may require.

E. The operational requirements of Subsections A, B and D do not apply during the first sixty minutes of the daily operation of a wood waste burner.

500. Regulations Governing Emission of Particulate Matter

501. Asphalt Process Equipment

A. No person owning or operating asphalt process equipment shall permit, cause, suffer or allow particulate matter emissions to the atmosphere in excess of the maximum amounts specified in the following table:

Aggregate Process Rate Pounds Per Hour	Maximum Stack Emission Rate Pounds Per Hour
10,000	10
20,000	15
30,000	22
40,000	28
50,000	31
100,000	33
200,000	37
300,000	40
400,000	43
500,000	47
600,000 & above	50

B. When the process rate is between any two consecutive process rates in the table, the maximum stack emission rate is determined by interpolation. Where a plant or operation has more than one stack, the maximum stack emission rate applies to the total of the emissions from all stacks.

C. No person owning or operating asphalt process equipment shall operate the equipment without a fugitive dust control system. The fugitive dust control system shall be operated and maintained so that all particulate emissions are limited to the stack outlet.

D.

1. Upon request, the department, by written permit, may suspend the operational requirements of Subsections A, B and C of this regulation for portable asphalt process equipment to be operated temporarily in rural areas. A permit shall not be issued for any period exceeding ninety operating days, but may be renewed when reasonably necessary for completion of a project. A written request that has not been acted upon within ten days after its receipt shall be deemed granted.

2. In making its decision on a petition, the department shall give weight it deems appropriate to all facts and circumstances, including but not limited to:

(a) character and degree of injury to, or interference with health, welfare, visibility and property;

(b) the public interest, including the social and economic value of the sources and subjects of the air contaminants involved; and

(c) technical practicability and economic reasonableness of complying with this regulation.

3. The department may require the requestor to submit his request in writing and any or all of the following information:

(a) requestor's name, address and telephone number;

(b) nature of the project and the location where the unit is to be operating;

(c) the proposed length of time of operation;

(d) the aggregate process rate (pounds per hour) of the equipment to be utilized: and

(e) reasons why the requestor believes the suspension of the operational requirements is necessary.

E. As used in this regulation, "rural area" means any area five or more miles from a community of more than fifty people and one or more miles from any residence.

502. Cement Kilns

No person operating or utilizing cement kilns shall permit, cause, suffer or allow particulate matter emissions in excess of the 230 mg/m^3 of exhaust gas.

503. Gypsum Processing Plants

No person operating or utilizing equipment for gypsum processing shall permit, cause, suffer or allow particulate matter emissions in excess of 690 mg/m^3 of exhaust gas.

504. Particulate Emissions from Coal Burning Equipment

A. Emissions of particulate matter from coal burning equipment which prior to the effective date of these Regulations were in operation or in the process of construction and which were designed to meet the following maximum emission standards shall not exceed Table II. Operators of such equipment shall have ninety days following the effective date of this regulation to file an acceptable schedule of compliance with the Board, or its authorized representative, to insure that by a time specified in the schedule, all coal burning equipment will not exceed emission limits established under Table III, part B, of this regulation. In the event no schedule of compliance is filed or no acceptable schedule of compliance is filed, then the coal burning equipment shall comply with Table III by midnight December 31, 1973.

TABLE II

Heat Input in Million British Thermal Units Per Hour	Maximum Allowable Emissions of Particulate Matter in Pounds Per Million British Thermal Units Input Per Hour
30 or less	0.70
31 or larger	0.50

B. Emissions of particulate matter from other coal burning equipment shall not exceed the maximum allowable emissions set forth in the following Table III, except that coal burning equipment in operation or in the process of construction at the effective date of these regulations and which do not meet the criteria set out in (A) above, shall comply with Table III by midnight December 31, 1971. Operators of such equipment shall have ninety days following the effective date of these regulations to file an acceptable schedule of compliance with the Board of its authorized representative, to insure that this equipment shall be in compliance with emission limits established in Table III by midnight December 31, 1971.

TABLE III

Heat Input in Million British Thermal Units Per Hour	Maximum Allowable Emissions of Particulate Matter in Pounds per Million British Thermal Units Input Per Hour
10	0.56
20	0.48
30	0.43
40	0.40
50	0.38
70	0.35
100	0.33
200	0.28
300	0.25
400	0.23
500	0.22
700	0.20
1000	0.190
2000	0.172
3000	0.162
5000	0.150
7500	0.141
10000	0.135

In lieu of Table III, emissions may be calculated by the following formulas:

E = Particulate emissions

I = Total Heat Input (in units of BTU's x 10^6/hr.)

When I = 1 to 1000 then

$$E = 0.96135 I^{-0.23471}$$

When I = 11,000 to 20,000 then

$$E = 0.524311^{-0.14687}$$

C. Particulate matter emissions governed by Subsections A and B of this regulation shall be determined by the method described in the American Society of Mechanical Engineers Power Test Code PTC 27-1957, entitled "Determining Dust Concentration in a Gas Stream", published by the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York.

D. After December 31, 1974, no person owning or operating coal burning equipment shall permit, cause, suffer or allow:

1. Particulate matter emissions to the atmosphere in excess of .05 pounds per million British Thermal Units of heat input, or
2. Fine particulate matter emissions of less than two microns equivalent aerodynamic diameter and unit density to the atmosphere in excess of .02 pounds per million British Thermal Units of heat input.

E. Fine particulate matter emissions governed by Subsection D of this regulation shall be collected and measured at stack conditions and in such a manner that no condensation of gaseous material is included with the sample.

505. Pumice, Mica and Perlite Process Equipment

A. No person owning or operating pumice, mica or perlite process equipment shall permit, cause, suffer or allow particulate matter emissions to the atmosphere from a stack or stacks in excess of the maximum amounts specified in the following table:

Process Rate Pounds Per Hour	Maximum Stack Emission Rate Pounds Per Hour
10,000	10
20,000	15
30,000	22
40,000	28
50,000	31
100,000	33
200,000	37
300,000	40
400,000	43
500,000	47
600,000 & above	50

B. When the process rate is between any two consecutive process rates in the table, the maximum stack emission rate is determined by interpolation. Where an operation has more than one stack, the maximum stack emission rate applies to the total of the emissions from all stacks.

C. Within technical feasibility, all particulate matter emissions to the atmosphere resulting directly from the operation of pumice, mica or perlite process equipment shall be limited to the stack outlet or outlets. Particulate matter emissions not governed by this subsection are governed by Subsection D.

D. No person owning or operating pumice, mica or perlite process equipment shall permit, cause, suffer or allow any material to be handled, transported, stored or disposed of, or a building or road to be used, constructed, altered or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

E. As used in this regulation, "Process Weight" means the total of all materials including solid fuel but not including liquid or gaseous fuel or combustion air introduced into any specific process. The process rate per hour is derived by dividing the total process weight by the number of hours in the complete operation, excluding any time during which the equipment is idle.

506. Nonferrous Smelters - Particulate Matter

A. No person owning or operating a new nonferrous smelter shall permit, cause, suffer or allow particulate matter emissions to the atmosphere in excess of .03 grains per dry standard cubic foot of discharge gas.

B. No person owning or operating an existing nonferrous smelter shall permit, cause, suffer or allow particulate matter emissions to the atmosphere from:

1. The stack or stacks connected directly to the reverberatory furnace in excess of 1100 pounds per hour;

2. The stack or stacks serving the acid plant in excess of .05 grains per dry standard cubic foot of discharge gas;

3. The stack or stacks serving the reverberatory feed dryer in excess of .05 grains per dry standard cubic foot of discharge gas;

4. The stack or stacks serving the fire refining furnace in excess of:

   a) 30 pounds per hour during the charging operation;
   b) 50 pounds per hour during the blowing operation;
   c) 200 pounds per hour during the poling operation;
and
   d) 550 pounds per hour during the fluxing operation.

C. The stack or stacks used solely for venting captured fugitive emissions from the matte tapping, matte ladle, and slag skimming areas on the reverberatory furnace of an existing nonferrous smelter do not have a particulate limitation.

D. Compliance with Sections A and B of this regulation shall be determined by a method consistent with the method set forth by the Federal Environmental Protection Agency at 40 CFR, Part 60, Appendix A, Methods 1 through 5, except that Method 5 is modified as follows: The distilled water specified in the first impinger of Method 5 is replaced with isopropyl alcohol solution as specified within Method 3 of 40 CFR, Part 60, Appendix A. The temperature of the probe and oven containing the cyclone and filter should be maintained above the dew point of sulfuric acid mist in order to prevent condensation of acid mist within the probe or on the filter. After sample collection, the isopropyl alcohol solution within the first impinger is analyzed for sulfur trioxide and sulfuric acid mist as described in Method 8. Solid particulate matter is collected within the nozzle, probe, cyclone and filter while liquid particulate matter is collected within the isopropyl alcohol impinger. Compliance with Sections A and B shall be determined by comparison of the sum of the solid and liquid particulate matter to the applicable emission limitation. Upon request of the Department, the owner or operator of nonferrous smelters subject to this regulation shall perform stack testing according to the method stated above and report the results of such tests in the format and time period specified by the Department. The owner or operator shall inform the Department of the dates and times of such testing so that the Department may have the opportunity to have an observer present during testing.

E. As used in this regulation:

1. "new nonferrous smelter" means nonferrous smelter the construction or modification of which was commenced after September 1, 1971;

2. "existing nonferrous smelter" means nonferrous smelter that was fully constructed and operational prior to September 1, 1971;

3. "construction" means fabrication, erection, or installation of an affected facility;

4. "commenced" means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time a continuous program of construction;

5. "modification" means a physical change or change in the manner of operation which increases the amount of any air contaminant emitted by the nonferrous smelter or which results in the emission of any air contaminant not previously emitted; and

6. "standard conditions" means temperature of 68 degrees Fahrenheit and pressure of 29.92 inches of mercury.

507. Oil Burning Equipment - Particulate Matter

A. No person owning or operating new oil burning equipment having a a rated heat capacity greater than 250 million British Thermal Units per hour (higher heating value) per unit shall permit, cause, suffer or allow particulate matter emissions to the atmosphere in excess of 0.03 pounds per million British Thermal Units of heat input (higher heating value) or visible emissions in excess of an opacity of twenty percent (20%) except as provided in Section C;

B. No person owning or operating existing oil burning equipment having a rated heat capacity greater than 250 million British Thermal Units per hour (higher heating value) per unit shall permit, cause, suffer or allow particulate matter emissions to the atmosphere:

1. in excess of 0.05 pounds per million British Thermal Units of heat imput (higher heating value) from equipment used to generate steam or electrical power for other than on-site use;

2. in excess of 0.10 pounds per million British Thermal Units of heat imput (higher heating value) from equipment used to generate steam or electrical power for on-site use only and constructed on or after January 1, 1950; and

3. in excess of 0.20 pounds per million British Thermal Units of heat imput (higher heating value) from equipment used to generate steam or electrical power for on-site use only and constructed before January 1, 1950.

C. Visible emissions resulting from lightoff of new flames, blowing tubes and flues, or changing fuels while operating shall not be deemed violations provided the visible emissions do not exceed twenty-seven percent (27%) opacity for a period or periods aggregating not more than 6 minutes in any 60-minute period for units governed by Section A.

D. Particulate matter emissions governed by Sections A and B shall be determined by a method consistent with the method set forth by the federal Environmental Protection Agency at 40 CFR, Part 60, Appendix A, Methods 1 through 5 or any other equivalent method receiving prior approval from the Department. Upon request of the Department, the owner or operator of oil burning equipment regulated by Sections A and B shall perform stack testing according to the method stated above and report the results of such tests in the format and time period specified by the Department. The owner or operator shall inform the Department of the dates and times of such testing so that the Department may have an opportunity to have an observer present during testing.

E. Opacity of emissions from oil burning equipment subject to this regulation shall be determined consistent with the method set forth by the federal Environmental Protection Agency at 40 CFR, Part 60, Appendix A, Method 9 or any other equivalent method receiving prior approval from the Department. The time period for taking opacity readings shall be for a minimum of six minutes.

F. As used in this regulation:

1. "new oil burning equipment" means oil burning equipment the construction of which is commenced after August 17, 1971;

2. "existing oil-burning equipment" means oil burning equipment that was fully constructed and operational or under construction prior to August 17, 1971. Existing oil burning equipment also includes any gas burning equipment that is converted to burn oil for energy considerations if the gas burning equipment was fully constructed and operational on the effective date of this regulation;

3. "construction" means fabrication, erection or installation of an affected facility;

4. "commenced" means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction;

5. "visible emissions" means particulate or gaseous matter which can be detected by the human eye; and

6. "opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

508. Potash, Salt or Sodium Sulfate Processing Equipment - Particulate Matter*

A. No person owning or operating new potash, salt or sodium sulfate processing equipment shall permit, cause, suffer or allow particulate matter emissions to the atmosphere:

1. to exceed 0.10 grains per dry cubic foot of discharge gas adjusted to standard conditions from dryers; or

2. to exceed 0.04 grains per dry cubic foot of discharge gas adjusted to standard conditions from all other processing equipment.

B. As expeditiously as practicable, but not later than December 31, 1981, no person owning or operating existing potash, salt or sodium sulfate processing equipment shall permit, cause, suffer or allow particulate matter emissions to the atmosphere:

1. in excess of a total of 90 pounds per hour from all stacks serving equipment used in drying muriate of potash and all associated compactor operations;

2. in excess of a total of 90 pounds per hour from all stacks serving equipment used in drying langbeinite;

3. in excess of a total of 35 pounds per hour from all stacks serving equipment used in drying sulfate of potash and associated screening operations;

---

*Non-compliance schedules and an order for several industries. See noncompliance schedules and Non-regulatory sections for Federal Register Publication dated December 24, 1980.

4. in excess of a total of 15 pounds per hour from all stacks serving equipment used in dry milling of fine langbeinite; and

5. in excess of a total of 50 pounds per hour from all stacks serving equipment used in drying salt or sodium sulfate.

C. As expeditiously as practicable, but not later than December 31, 1982, no person owning or operating existing potash, salt or sodium sulfate processing equipment shall permit, cause, suffer or allow particulate matter emissions to the atmosphere in excess of a total of 30 pounds per hour from all stacks serving evaporators.

D. Any person owning or operating existing potash, salt or sodium sulfate processing equipment which includes submerged combustion evaporators which have no controls for particulate matter may file a written statement of intent to replace the submerged combustion evaporators with solar or other evaporators with total particulate matter emissions inherently less than 30 pounds per hour. Such written statement of intent must be filed with the Board within 90 days of the effective date of this regulation. Any person submitting a timely statement of intent shall not be required to comply with the provisions of Section C, but shall comply with the provisions of Section E. Any person not submitting a timely statement of intent shall comply with the provisions of Section C.

E. No person owning or operating existing potash, salt or sodium sulfate processing equipment who has submitted a timely statement of intent to replace existing uncontrolled submerged combustion evaporators as provided in Section D above shall permit, cause, suffer or allow particulate matter emissions to the atmosphere:

1. after December 31, 1982, in excess of a total of 350 pounds per hour from all stacks serving evaporators; and

2. after December 31, 1984, in excess of a total of 30 pounds per hour from all stacks serving evaporators.

F. As expeditiously as practicable, but not later than December 31, 1982, no person owning or operating existing potash , salt, sodium sulfate processing equipment shall permit, cause, suffer or allow particulate matter emissions from any equipment not regulated by Section A, B, C, D or E above to exceed the allowable rates specified within Table 1. Interpolation of rates not specified within the table shall be accomplished by use of the equation:

$$E = 0.045q^{0.62}$$

where E is the allowable emission rate expressed in pounds per hour and q is the stack volumetric flow rate expressed in dry cubic feet per minute adjusted to standard conditions.

TABLE 1

ALLOWABLE PARTICULATE EMISSION RATES FOR SPECIFIC STACK VOLUMETRIC FLOW RATES

Volumetric Flow Rate (dscfm)	Allowable Emission Rate (lb/hr)
1,000 or less	3.3
2,000	5.0
4,000	7.7
6,000	9.9
8,000	11.8
10,000	13.6
20,000	20.9
30,000	26.9
40,000	32.1
50,000	36.9
60,000	41.3
70,000 or greater	45.4

G. No person owning or operating potash, salt or sodium sulfate processing equipment shall install or utilize any equipment or mechanism which increases the volume of gases emitted from a stack or stacks so as to decrease the apparent concentration of particulate matter within the gas stream so as to circumvent the requirements of Section A above or increase the allowable emission rate as specified within Section F.

H. No person owning or operating potash, salt or sodium sulfate processing equipment shall permit, cause, suffer or allow emissions of particulate matter to the atmosphere except through stacks equipped with sampling ports and platforms in such number, location and size to allow accurate sampling to be performed. Stack height shall meet standards for good engineering practice. When it is not feasible to direct certain emissions through a stack, the owner or operator must utilize best engineering practices to minimize the release of fugitive particulate matter emissions to the atmosphere.

I. Compliance with Sections A, B, C, E and F of this regulation shall be determined consistent with the method for manual stack testing set forth by the federal Environmental Protection Agency at 40 CFR, Part 60, Appendix A. Methods 1 through 5, or any other method receiving prior approval from the Department. Upon request of the Department, the owner or operator of potash, salt or sodium sulfate processing equipment shall perform stack testing according to the method stated above and report the results of such tests in the format and time period specified by the Department. The Department shall not require testing of a stack or stacks more frequently than annually unless the Department has reason to believe that the emissions from the stack or stacks may be in violation of applicable emission limits, or a test is necessary to demonstrate compliance after the completeion of measures intended to gain compliance on a stack or stacks previously determined to be in violation of applicable emission limits. The owner or operator shall inform the Department of the dates and times of such testing so that the Department may have opportunity to have an observer present during testing.

J. Where a stack or stacks regulated by Sections B or C also carry discharge gases from equipment regulated by Section F, the allowable emission limit for the stack or stacks shall be increased by the allowable emission rate for the volume of discharge gases arising from the equipmennt regulated by Section F. The additional allowed emissions shall be calculated as specified within Section F based upon a determination of the volume of discharge gases prior to the point at which they are combined with discharge gases from equipment regulated by Sections B or C. In no case shall the allowable emissions from a stack or stacks which carry combined discharge gases exceed the sum of the allowable emissions if the discharge gases were not combined.

K. As used in this regulation:

1. "potash" means muriate potash (the chemical compound potassium chloride, KCl), sulfate of potash, (the chemical compound potassium sulfate, K_2SO_4) and langbeinite (the chemical compound potassium magnesium sulfate, $K_2SO_4-2MgSO_4$), or any other potassium, magnesium or mixed-potassium salts, and includes ores, intermediates, products and reaction products of such compounds;

2. "salt" means the chemical compound sodium chloride (NaCl) and includes ores, intermediates, products and reaction products of this compound;

3. "sodium sulfate" means the chemical compound sodium sulfate (Na_2SO_4) and includes ores, intermediates, products and reaction products of this compound;

4. "existing potash, salt or sodium sulfate processing equipment" means process equipment in which the fabrication, erection or installation was commenced prior to January 1, 1979, and includes all crushers, grinders, screens and other size-classification units, compactors, granulators, evaporators, dryers, conveyors, storage piles (including ore, product or other storage piles), facilities for bagging and loading, and any other process units with particulate matter emissions to the atmosphere;

5. "new potash, salt or sodium sulfate processing equipment" means process equipment or process unit thereof, the fabrication, erection, installation or modification of which is commenced on or after January 1, 1979, and includes all crushers, grinders, screens and other size-classification units, compactors, granulators, evaporators, dryers, conveyors, storage piles

(including ore, product or othe storage piles), facilities for bagging and loading, and any other process units with particulate matter emissions to the atmosphere. New potash, salt or sodium sulfate processing equipment does not include process equipment installed solely to replace equivalent equipment installed prior to January 1, 1979, if the replacement equipment will not result in a significant increase in capacity;

6. "commenced" means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding contractual obligation to undertake and complete within a reasonable time a continuous program of construction;

7. "modification" means a physical change or change in the manner of operation which increases the amount of any air contaminant emitted by the potash, salt or sodium sulfate processing equipment or which results in the emission of any air contaminant not previously emitted;

8. "standard conditions" means tempertaure of 68 degrees Fahrenheit and pressure of 29.92 inches of mercury;

9. "good engineering practice" means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles. Such height shall not exceed:

a) thirty meters for stacks not influenced by the source itself, nearby structures or terrain; or

b) the height determined by use of the equation

$$Hg = H + 1.5\,L$$

where Hg = good engineering practice stack heights;
H = the height of the source or nearby structure, and
L = the lesser dimension (height or width) of the source or nearby structure

for stacks that are influenced by nearby structures or terrain.

10. "fugitive particulate matter emissions" means particulate matter emissions which escape from potash, salt or sodium sulfate processing equipment due to leakage materials handling, transfer and storage or other causes without being ducted through a stack;

11. "best engineering practices" means, with respect to control of fugitive particulate matter emissions, the installation

and use of hoods, enclosures, ducts, covers, sprays or other equipment or measures on potash, salt or sodium sulfate processing equipment as necessary to prevent particulate matter from becoming airborne;

12. "compactor operations" means compaction of fine muriate of potash materials and recrushing, screening or other size classification, and drying of the compacted materials; and

13. "submerged combustion evaporators" means vessels in which combustion occurs beneath the surface of a solution of dissolved potash, salt or sodium sulfate materials for the purpose of evaporating water.

509. Lime Manufacturing Plants - Particulate Matter*

A. No person owning or operating a new lime manufacturing plant shall permit, cause, suffer or allow emissions of particulate matter to the atmosphere to:

1. exceed 0.30 pounds per ton of limestone feed, or exhibit ten percent opacity or greater, from any lime kiln; or

2. exceed 0.15 pounds per ton of lime feed to any lime hydrator.

B. After December 31, 1980, no person owning or operating an existing lime manufacturing plant shall permit, cause, suffer or allow emissions of particulate matter to the atmosphere to exceed 10 pounds per hour from any rotary lime kiln.

C. Any person owning or operating a lime manufacturing plant shall equip and maintain all crushers, screens or other size-classification units, hoppers and chutes with:

1. systems of enclosures, dust suppressant sprays and other measures as necessary to prevent the release of particulate matter emissions to the atmosphere; or

2. equip such process units with hoods, fans, and fabric filters, wet scrubbers or other collection and control systems approved by the Department as at least as effective to reduce particulate matter emissions to the atmosphere.

This section shall be applicable to existing lime manufacturing plants after December 31, 1980.

---

*Variance order for Kennecott Copper Corporation through December 30, 1980. See Non Regulatory Section, Federal Register Publication December 24, 1980.

D. No person owning or operating lime manufacturing plants shall permit, cause, suffer or allow emissions of particulate matter to the atmosphere from a lime kiln or lime hydrator except through stacks equipped with sampling ports and platforms in such number, location and size to allow accurate sampling to be performed.

E. Compliance with Sections A and B of this regulation shall be determined consistent with the method for manual stack testing set forth by the federal Environmental Protection Agency at 40 CFR, Part 60, Appendix A, Methods 1 through 5, or any other method receiving prior approval from the Department. Upon request of the Department, the owner or operator of lime manufacturing plants shall perform stack testing according to the method stated above and report the results of such tests in the format and time period specified by the Department. The owner or operator shall inform the Department of the dates and times of such testing so that the Department may have opportunity to have an observer present during testing.

F. No person owning or operating a new lime manufacturing plant shall permit, cause, suffer or allow operation of the new lime manu facturing plant unless the plant is equipped with continuous monitoring systems as specified in 40 CFR, Part 60, Subpart HH, Section 60.343.

G. As used in this regulation:

1. "existing lime manufacturing plant" means any plant that produces lime by calcination that was constructed and operational, or at which construction was commenced, prior to May 3, 1977, and includes all crushers, conveyors, screens and other size-classification units, hoppers, chutes and kilns;

2. "new lime manufacturing plant" means any plant that produces lime by calcination at which construction or modification was commenced on or after May 3, 1977, and includes all crushers, con veyors, screens and other size-classification units, hoppers, chutes and kilns. New lime manufacturing plant also includes any plant which produces hydrated lime, the construction or modification of which was commenced on or after May 3, 1977;

3. "lime" means the product of the calcination process and includes, but is not limited to, calcitic lime, dolomitic lime, and dead burned dolomite;

4. "rotary lime kiln" menas a unit with an inclined rotating drum which is used to produce lime from limestone by calcination;

5. "lime hydrator" means a unit used to procuce hydrated lime;

6. "commenced" means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding contractual obligation to undertake and complete within a reasonable time a continuous program of construction;

7. "modification" means a physical change or change in the manner of operation which increases the amount of any air contaminant emitted by the lime manufacturing plant or which results in the emission of any air contaminant not previously emitted; and

8. "opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the back ground.

510. Fugitive Particulate Matter Emissions From Nonferrous Smelters*

A. After December 31, 1980, no person owning or operating an existing nonferrous smelter shall permit, cause, suffer or allow the operation of the nonferrous smelter unless the owner or operator:

1. installs and operates well-designed exhaust hoods, fans and ducts, or other control systems approved by the Department as at least as effective to capture fugitive particulate matter emissions from the matte tapping, transfer, ladle filling and slag skimming operations of the reverberatory furnace;

2. maintains and operates all furnaces, converters and converter hoods so that fugitive particualte matter emissions are minimized to the maximum extent practicable; and

3. maintains all ducts, flues, waste-heat boilers and stacks in as near leak-free condition as practicable.

The height of the stack or stacks used for venting captured fugitive particulate matter emissions from the matte tapping, transfer, ladle filling and slag skimming operations of the reverberatory furnace shall meet or exceed the standards for good engineering practice unless the emissions are discharged through fabric filters or other control systems approved by the Department as at least as effective to reduce fugitive particulate matter emissions to the atmosphere.

B. After December 31, 1980, no person owning or operating an existing nonferrous smelter shall permit, cause, suffer or allow the transfer or conveying of particulate matter from electrostatic precipitators, waste-heat boilers or other dry particulate control equipment unless fugitive particulate matter emissions are controlled by:

---

*Variance order for Kennecott Copper Corporation. See Non-compliance schedules, Federal Register Publication, December 24, 1980.

1. production of a pelletized, wet, or other non-dusting product within an enclosed system to prevent the escape of fugitive particulate matter to the atmosphere; or

2. the use of hoods or enclosures and venting collected particulate matter through fabric filters or other control systems approved by the Department as at least as effective to reduce fugitive particulate matter emissions to the atmosphere.

C. After December 31, 1982, no person owning or operating an existing nonferrous smelter shall permit, cause, suffer or allow the establishment, operation, or use of storage piles for copper ore concentrate, copper precipitate, lime or limestone, or fine silica flux materials within the boundary of the smelter unless the storage and associated materials handling areas are enclosed or other control methods approved by the Department as at least as effective to reduce fugitive particulate matter emissions to the atmosphere are utilized.

D. After December 31, 1982, no person owning or operating an existing nonferrous smelter shall permit, cause, suffer or allow the use of any roadway or parking area within the boundaries of the smelter and associated facilities unless the roadway or parking area is paved and frequently cleaned, or other control measures approved by the Department as at least as effective to reduce fugitive particulate matter emissions to the atmosphere are utilized. Where the owner or operator of an existing nonferrous smelter demonstrates to the satisfaction of the Department that certain roadways or parking areas are used infrequently, the Department may allow the use of less effective control measures such as the application of crushed stone or periodic treatment with dust suppressant chemicals or oils to such roadways or parking areas.

E. As used in this regulation:

1. "new nonferrous smelter" means nonferrous smelter the construction or modification of which was commenced after September 1, 1971;

2. "existing nonferrous smelter" means a nonferrous smelter that was constructed and operational prior to September 1, 1971;

3. "fugitive particulate matter" means particulate matter emissions which escape to the atmosphere due to leakage, materials handling, transfer or storage, travel over unpaved roads or parking areas, or other activities and are not ducted through primary exhaust systems; and

4. "good engineering practice" means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself or nearby structures.

511. Fugitive Particulate Matter Emissions From Roads Within The Town Of Hurley

A. After December 31, 1982, no person owning or maintaining any road within the municipal limits of the Town of Hurley shall permit, cause, suffer, or allow the use of such road unless the surface of the road is paved, maintained with adequate cover of crushed stone, treated periodically with dust suppressant chemicals or oils, or utilize other control measures approved by the Department to minimize the release of fugitive particulate matter emissions to the atmosphere.

B. As used in this regulation:

1. "road" means streets or highways, including the shoulders thereof, but does not include driveways, alleys or parking areas.

2. "fugitive particulate matter emissions" means dust or other solid material released to the atmosphere from any road surface.

601. Regulation Governing Emission from Kraft Mills

Kraft mills means any industrial operation which uses for a cooking liquor an alkaline solution containing sulfur compounds in its pulping process.

602. Coal Burning Equipment - Sulfur Dioxide

A. No person owning or operating new coal burning equipment having a power generating capacity in excess of 25 megawatts or a heat input of greater than 250 million British Thermal Units per hour shall permit, cause, suffer, or allow sulfur dioxide emissions to the atmosphere in excess of .34 pounds per million British Thermal Units of heat input (higher heating value).

B. Except as provided in Section C, no person owning or operating existing coal burning equipment having a rated heat capacity greater than 250 million British Thermal Units (higher heating value) per hour shall permit, cause, suffer or allow sulfur dioxide emissions to the atmosphere in excess of .53 pounds per million British Thermal Units of heat input (higher heating value). This section shall become effective July 9, 1978.

C. Any person owning or operating an existing coal burning station having units with a rated heat capacity greater than 250 million British Thermal Units (higher heating value) per hour:

1. may file a written statement of intent to submit individual emission limits for each unit of the station such that total emissions from the station will not exceed .53 pounds per million British Thermal Units of heat input (higher heating value) when all units are operating at maximum capacity. Such written statements of intent must be filed with the Board on or before July 9, 1978. Any person submitting a timely written statement of intent shall not be required to comply with the provisions of Section B. Any person not submitting a timely written statement of intent shall comply with the provisions of Section B;

2. if, having submitted a statement of intent as provided in Subsection C.1, shall file with the Board on or before December 31, 1980, a petition stating proposed individual emission limits for each unit within the station such that total emissions from the station will not exceed .53 pounds of sulfur dioxide per million British Thermal Units of heat input (higher heating value) when all units are operating at maximum capacity. Individual emission limits for each unit shall be expressed in terms of pounds of sulfur dioxide per million British Thermal Units of heat input (higher heating value); and

3. having received from the Board approval of the proposed individual unit emission limits, shall not permit, cause, suffer or allow sulfur dioxide emissions to the atmosphere from any unit in excess of the approved individual emission limits for each unit, after December 31, 1982.

D. Any person submitting proposed emission limits for individual units, pursuant to Subsection C.2, of this regulation shall:

1. state the petitioner's name and address;

2. state the date of the petition;

3. describe the station for which individual unit emission limits are proposed;

4. state the address or description of the property upon which the station is located;

5. include, with regard to the individual units for which emission limits are proposed, the following information:

a) designation of the unit;

b) proposed emission limit for that unit;

c) capacity of the unit, expressed in million British Thermal Units per hour; and

d) include calculations and any other relevant documentation or material in support of the proposal.

E. The Board, after receipt of a petition stating proposed individual unit emission limits, filed pursuant to Subsection C.2, shall:

1. make available for public inspection a copy of the petition at its office;

2. at its next regularly scheduled meeting, set the date, time and place of a public hearing on the petition; such public hearing to be held no later than ninety days following said Board meeting;

3. notify the petitioner by certified mail at least thirty days in advance of the hearing of the date, time, and place of the public hearing;

4. publish notice of the hearing and conduct the hearing according to the procedures set forth in the New Mexico Air Quality Control Act, Section 12-14-6; and

5. at the conclusion of the hearing, approve and adopt the proposed individual emission limits if the Board determined that they meet the requirements of Subsection C.2. If the Board determines that the proposed individual emission limits do not comply with the requirements of Subsection C.2, the Board shall continue the hearing up to forty-five days to allow petitioner to modify its units' proposed individual emission limits. At the conclusion of such continued hearing, the Board shall either approve or disapprove the proposed individual unit emission limits. If the Board, after considering the revised individual unit emission limits, determines that such proposed limits will not comply with the requirements of Subsection C.2, then each unit in the existing coal burning station shall be subject to the emission limitations specified in Section B and shall comply with such limitations on or before December 31, 1982. The Board shall file with the State Records Center the approved individual unit emission limits within thirty days after their adoption.

F. Compliance with Sections A,B, and C.2 shall be determined by a method consistent with the manual method of sampling for sulfur dioxide set forth by the Environmental Protection Agency at 40 CFR, Part 60, Appendix A, Methods 1 through 4, and 6, or any other method receiving prior approval by the Department.

G. No person owning or operating existing coal burning equipment subject to this regulation shall permit, cause, suffer, or allow operation of the existing coal burning equipment without normally maintaining in good operating condition at least one monitor, approved by the Department, which shall continuously measure and record sulfur dioxide concentrations in the gases within the stack from which the gases are released to the atmosphere. Instruments and sampling systems installed and used pursuant to this section shall be calibrated in accordance with the methods prescribed by manufacturer's recommended zero adjustment and calibration check procedures at least once every 24 hours of operation, unless the manufacturer specified or recommends calibration checks more frequently; provided, however, that no calibration and adjustments shall be required during periods when the coal burning equipment is not operating. The reference method shall be consistent with the method for manual sampling of sulfur dioxide specified in Section F.

H. 1. To aid the Department in determining compliance with this regulation, persons owning or operating coal burning equipment subject to this regulation shall, after July 9, 1978 or December 31, 1982, whichever is its compliance date, submit quarterly reports to the Department for the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year, each report to be received by the Department within forty-five days of the end of the quarterly period. The quarterly reports shall contain the following:

a) hourly average of the concentrations of sulfur dioxide, expressed in parts per million, in the gases which are being emitted to the atmosphere, except for periods of instrument calibration and zero adjustments;

b) hourly averages of the percent excess oxygen in the gases coming from the coal burning equipment;

c) rate of heat input (higher heating value) into the coal burning equipment calculated for each day; and

d) daily average or daily composite percent sulfur and heat content (higher heating value) of the coal utilized by the coal burning equipment determined for each day.

2. Upon request, the Department may approve alternative methods of monitoring and reporting the information specified in Subsection H.1.

I. 1. 'new coal burning equipment' means coal burning equipment the construction of which is commenced after September 1, 1971;

2. 'existing coal burning equipment' means coal burning equipment that was fully constructed and operational or under construction prior to September 1, 1971;

3. 'existing coal burning station' means one or the combination of two or more units of existing coal burning equipment at one location;

4. 'construction' means fabrication, erection, or installation of an affected facility; and

5. 'commenced' means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

603. Coal Burning Equipment - Nitrogen Dioxide

A. No person owning or operating new coal burning equipment having a power generating capacity in excess of 25 megawatts or a heat input of greater than 250 million British Thermal Units per hour shall permit, cause, suffer or allow nitrogen dioxide emissions to the atmosphere in excess of .45 pounds per million British Thermal Units of heat input.

B. After December 31, 1974, no person owning or operating existing coal burning equipment having a power generating capacity in excess of 25 megawatts or a heat input of greater than 250 million British Thermal Units per hour shall permit, cause, suffer or allow nitrogen dioxide emissions to the atmosphere in excess of .7 pounds per million British Thermal Units of heat input.

C. As used in this regulation:

1. "new coal burning equipment" means coal burning equipment the construction of which is commenced after September 1, 1971;

2. "existing coal burning equipment" means coal burning equipment that was fully constructed and operational or under construction prior to September 1, 1971;

3. "construction" means fabrication, erection, or installation of an affected facility; and

4. "commenced" means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

D. Sampling of emissions of nitrogen dioxide shall be performed in a manner which prevents interference and prevents the contamination of the reactive elements of the sampling method. The sampling procedures need not be isokinetic but must yield representative gas samples.

604. Gas Burning Equipment - Nitrogen Dioxide

A. No person owning or operating new gas burning equipment having a heat input of greater than 1,000,000 million British Thermal Units per year per unit shall permit, cause, suffer or allow nitrogen dioxide emissions to the atmosphere in excess of .2 pounds per million British Thermal Units of heat input.

B. After December 31, 1974, no person owning or operating existing gas burning equipment having a heat input of greater than 1,000,000 million British Thermal Units per year per unit shall permit, cause, suffer or allow nitrogen dioxide emissions to the atmosphere in excess of .3 pounds per million British Thermal Units of heat input.

C. As used in this regulation:

1. "new gas burning equipment" means gas burning equipment that is fully constructed and operational after thirty days after this regulation is filed under the State Rules Act; and

2. "existing gas burning equipment" means gas burning equipment that is fully constructed and operational within thirty days after this regulation is filed under the State Rules Act

605. Oil Burning Equipment - Sulfur Dioxide

No person owning or operating oil burning equipment having a heat input of greater than 1,000,000 million British Thermal Units per year per unit shall permit, cause, suffer or allow sulfur dioxide emissions to the atmosphere in excess of .34 pounds per million British Thermal Units of heat input.

606. Oil Burning Equipment - Nitrogen Dioxide

No person owning or operating oil burning equipment having a heat input of greater than 1,000,000 million British Thermal Units per year per unit shall permit, cause, suffer or allow nitrogen dioxide emissions to the atmosphere in excess of .3 pounds per million British Thermal Units of heat input.

651. Sulfuric Acid Plants - Sulfur

A. After December 31, 1972, no person owning or operating an existing sulfuric acid plant except those plants manufacturing sulfuric acid from H_2S gas, having an output capacity of 200 tons per day or less shall permit, cause, suffer or allow sulfur emissions to the atmosphere in excess for a 24 hour average of five pounds of sulfur for every one hundred pounds of sulfur introduced into the plant.

B. After December 31, 1972, no person owning or operating an existing sulfuric acid plant manufacturing sulfuric acid from H_2S gas, having an output capacity of 200 tons per day or less shall permit, cause, suffer or allow sulfur emissions to the atmosphere in excess for a 24 hour average of seven pounds of sulfur for every one hundred pounds of sulfur introduced into the plant.

C. After December 31, 1972, no person owning or operating an existing sulfuric acid plant having an output capacity of greater than 200 tons per day shall permit, cause, suffer or allow sulfur emissions to the atmosphere in excess for a 24 hour average of three pounds of sulfur for every one hundred pounds of sulfur introduced into the plant.

D. No person owning or operating a new sulfuric acid plant shall permit, cause, suffer or allow sulfur emissions to the atmosphere in excess of two pounds of sulfur for every one hundred pounds of sulfur introduced into the plant.

E. As used in this regulation:

1. "sulfur" means elemental sulfur and the sulfur component of any sulfur mixtures or compound;

2. "existing sulfuric acid plant" means a sulfuric acid plant, the construction or modification of which is commenced prior to the publication of notice of hearing of this regulation as proposed; and

3. "new sulfuric acid plant" means a sulfuric acid plant, the construction or modification of which is commenced after the publication of notice of hearing of this regulation as proposed.

F. This regulation shall not apply to sulfuric acid plants that use sulfuric acid as SO_2 control systems.

652. Non-ferrous Smelters - Sulfur

A.* After December 31, 1982, no person owning or operating an existing non-ferrous smelter shall permit, cause, suffer or allow:

1. sulfur emissions to the atmosphere in excess of 3550 pounds per hour, 24-hour average; or

2. the release of fugitive sulfur emissions to the atmosphere unless the owner or operator utilizes best engineering practices to minimize the release of fugitive emissions. Best engineering practices shall, as a minimum, include:

a) maintaining and operating all furnaces, converters, and converter hoods so that leakage of gases to the atmosphere will be minimized to the maximum extent practicable;

b) maintaining all ducts, flues, and stacks in leak-free condition;

c) installing and operating tight-fitting exhaust hoods where feasible on all tapholes, launders and other significant sources of fugitive sulfur emissions; and

d) venting all captured fugitive emissions through the tallest stack serving the smelter.

B. No person owning or operating a new non-ferrous smelter shall permit, cause, suffer or allow sulfur emissions to the atmosphere in excess of ten pounds of sulfur for every one hundred pounds of sulfur fed to the smelter.

* Approved for attainment and maintenance of primary standards for sulfuroxides, - not approved for secondary standards. See Regulatory Federal Register Publication 4/10/80.

Section C applies only to state ambient standards and is not submitted as part of the State Implementation Plan.

D. No person owning or operating an existing non-ferrous smelter shall permit, cause, suffer or allow operation of the existing non-ferrous smelter without normally maintaining in good operating condition monitors which shall continuously measure and record the sulfur dioxide concentration and stack gas volumetric flow rate of the gases within the stack serving all furnaces, converters, acid plants, reverberatory feed dryers, and stack from which captured fugitive emissions are vented to the atmosphere. The sampling point for monitoring emissions within each stack shall be approved by the Department. Upon the request of the owner or operator of an existing non-ferrous smelter, the Department may exempt stacks from this monitoring requirement if the Department determines that they do not carry significant sulfur emissions. Instruments and sampling systems installed and used pursuant to this section shall be calibrated in accordance with the methods prescribed by manufacturer's recommended zero adjustment and calibration check procedures at least once every 24 hours of operation, inless the manufacturer specifies or recommends calibration checks more frequently. An existing non-ferrous smelter owner or operator shall retain for a period of two years all raw data and quality assurance measurements and procedures.

E. Instruments and sampling systems installed and used pursuant to Section D above shall be installed, operated and maintained in accordance with the performance specifications and other requirements set forth by the federal Environmental Protection Agency at 40 CFR, Part 52, Appendices D and E. In the event that significant repair work is performed on the monitoring system, the owner or operator of an existing non-ferrous smelter shall demonstrate to the Department that the system continues to meet the applicable performance specifications. The Department may require the owner or operator of an existing non-ferrous smelter to conduct performance tests as specified at 40 CFR, Part 52, Appendices D and E at any time that the Department determines that such a test is necessary to verify the performance of the monitoring system; provided, however the Department may approve alternative means of verifying the performance of the continuous monitoring system. The Department may also perform independent audits on the continuous monitoring system, utilizing Methods 1, 2, 4 and 8, found at 40 CFR, Part 60, Appendix A, or other applicable methods.

F. Compliance with Sections A and C of this Regulation shall be determined by adding the simultaneously-measured 24-hour average values of sulfur emitted from all the stacks in which continous monitoring is required by Section D above.

G. To aid the Department in determining compliance with this Regulation, persons owning or operating an existing non-ferrous smelter shall, after December 31, 1982, submit quarterly reports to the Department for the periods Januaryl through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year, each report to be received by the Department within 45 days of the end of the quarterly period. The quarterly reports shall contain the total pounds per hour of sulfur emitted from the smelter as determined by the continuous monitoring measurements. A 24-hour average value of total hourly sulfur emissions shall be reported as of each clock hour for the preceding 24-hour period. The method of obtaining 24-hour average values shall be approved by the Department.

H. As used in this regulation:

1) "sulfur" means elemental sulfur and the sulfur component of any sulfur mixtures or compound;

2) "existing non-ferrous smelter" means a non-ferrous smelter which was constructed and fully operational prior to September 1, 1971;

3) "new non-ferrous smelter" means a non-ferrous smelter at which construction commenced after September 1, 1971;

4) "fugitive emissions" means sulfur emissions which escape from various points in the smelting process due to leakage, materials charging and handling, transfer and storage, or other causes.

701. Procedure for Requesting a Variance - Hearing

A. Definition. As used in this regulation, a "petitioner" means a person seeking a variance from a regulation of the board or limitation prescribed under the Air Quality Control Act pursuant to Section 12-14-8, NMSA, 1953 Comp.

B. Petitions

1. Any person seeking a variance from a regulation of the board or from the limitations prescribed under the Air Quality Control Act pursuant to Section 12-14-8, NMSA, 1953 Comp., shall do so by filing a written petition with the secretary in care of the director. Petition forms may be obtained from the environmental services division of the department.

2. Petitions shall:

(a) state the petitioner's name and address;
(b) state the date of the petition;
(c) describe the facility or activity for which the variance is sought;
(d) state the address or description of the property upon which the facility is located;
(e) identify the regulation of the board or limitation prescribed under the Air Quality Control Act from which the variance is sought;
(f) state in detail the extent to which the petitioner wishes to vary from the regulation or limitation;
(g) state why the petitioner believes the variance is justified; and
(h) state the period of time for which the variance is desired.

3. The petitioner may submit with his petition any relevant documents or material which the petitioner believes would support his petition.

C. Action by Secretary

1. Within forty-five (45) days after receipt of the variance petition, the secretary shall make written recommendation to the board and mail a copy of the recommendation to the petitioner. The secretary may, when the circumstances justify, extend the period of time by which he must submit his recommendation to the board. The secretary shall notify the board and the petitioner of the length of the extension.

2. The secretary's recommendation shall:

(a) state the date that it is made;
(b) state the secretary's recommendation; and
(c) state the secretary's reasons for the recommendation.

D. Action by Board

1. Within four (4) days after the next regularly scheduled board meeting following the date of the secretary's recommendation:

(a) if the board initially favors the granting of a variance, the director shall notify the petitioner by certified mail of the date, time, and place of the public hearing; or

(b) if the board is initially opposed to the granting of a variance, the director shall notify the petitioner by certified mail of the board's opposition, the reasons for its opposition, and the fact that no public hearing will be held unless the petitioner requests one. The notice shall also inform the petitioner of the date by which he must request a public hearing.

2. If the petitioner fails to request a public hearing in writing within fifteen (15) days of the date the notice of the board's opposition is received by him, the petition shall be deemed denied with prejudice.

3. If the petitioner makes a timely request for a public hearing, the director shall, within five (5) days of the date of the receipt of the request, notify the petitioner by certified mail of the date, time, and place of the hearing.

E. Notice.

1. At least seven (7) days prior to each hearing date, the director shall publish notice of the date, time, place and subject of the variance hearing in a newspaper of general circulation in the county in which the facility is located and in a newspaper of general circulation in the state.

2. The director shall maintain a file of persons interested in variance hearings and shall make a reasonable effort to notify them by mail of the date, time, place, and subject of scheduled public hearings.

F. Hearings - Actions by Board - Written Order

1. Public hearings shall be held before the board not less than fifteen (15) days nor more than forty-five (45) days from the date the director mails the notice of the hearing to the petitioner.

2. Public hearings shall be held in Santa Fe unless the board and the petitioner agree upon another site in the state.

3. The board may designate a hearing officer to take evidence at the hearing.

4. A record shall be made at each hearing, the cost of which shall be borne by the department. Transcript costs shall be paid by those persons requesting transcripts. If the hearing is conducted by a hearing officer designated by the board, the cost of providing transcripts to the board members shall be borne by the department.

5. In variance hearings, the technical rules of evidence and the rules of civil procedure shall not apply, but the hearings shall be conducted so that all relevant views are amply and fairly presented without undue repetition. The board may require reasonable substantiation of statements or records tendered and may require any view to be stated in writing when the circumstances justify.

6. The board shall allow all persons a reasonable opportunity at a hearing to submit written and oral evidence and arguments and to introduce exhibits.

7. The petitioner and the board shall have the right to call and examine witnesses, introduce exhibits, and cross-examine persons who testify.

8. The board shall allow reasonable cross-examination of persons who testify at a hearing by persons who have submitted a written request to do so. Requests must be submitted to the director by 4:00 p.m. on the day before each hearing.

9. A petitioner may represent himself at the hearing or be represented by any other individual.

10. The board may grant the requested variance, in whole or in part, or may deny the variance. All action taken by the board shall be by written order by the next regularly scheduled board meeting after each hearing, or, if the hearing was conducted before a hearing officer, by the next regularly scheduled board meeting after the date the transcript of the hearing is available. A copy of the order shall be mailed to the petitioner. All persons appearing or represented at the hearing shall be mailed notice of the board's action.

11. Orders of the board shall:

(a) state the petitioner's name and address;
(b) state the date the order is made;
(c) describe the facility for which the variance is sought;
(d) identify the regulation of the board or limitation prescribed under the Air Quality Control Act from which the variance was sought;
(e) state the decision of the board;
(f) if a variance is granted, state the period of time for which it is granted; and
(g) state the reasons for the board's decision.

12. The director shall maintain a file of all orders made by the board. The file shall be open for public inspection.

G. Effect of Order of Board - Failure to Appear at Hearing

1. An order of the board is final and bars the petitioner from petitioning for the same variance without special permission from the board. The board may consider, among other things, the development of new information and techniques to be sufficient justification for a second petition.

2. If the petitioner, or his authorized representative, fails to appear at the public hearing on the variance petition, the board shall proceed with the hearing on the basis of the petition.

H. Stay of enforcement

1. Subject to the emergency provisions of Section 12-14-9, NMSA, 1953 Comp., while a variance petition is pending and before the board takes final action on the petition, the department may not enforce the corresponding regulation of the board from which the variance is sought unless, in the opinion of the director:

(a) enforcement is reasonably necessary to protect the public interest of New Mexico;

(b) the variance petition was not filed in good faith; or

(c) the petitioner is causing or contributing to air pollution to a greater degree than that requested by the variance petition.

2. The petitioner may submit with his variance petition a statement showing why he believes that nonenforcement is in the public interest of New Mexico.

3. The director's opinion on the questions of public interest and good faith is discretionary and not subject to review.

4. The director may re-examine his opinion at any time and, when the circumstances justify, make a different determination.

5. Subsection H does not apply to any subsequent petitions for the same variance by the same petitioner, except as the director may otherwise determine.

I. Timeliness

1. When the last day for performing an act falls on Saturday, Sunday, or a legal, state, or national holiday, the performance of the act is timely if performed on the next succeeding day which is not a Saturday, Sunday, or a legal, state, or national holiday.

2. All matters required to be filed or mailed under this regulation are timely if deposited in the United States mail on or before the required date, except as provided under Subsection F (8).

702. Permits

A. Any person constructing or modifying any new source of an air contaminant, which source, if it were uncontrolled, would result in an emission of the contaminant greater than ten pounds per hour or twenty-five tons per year or would result in the emission of a hazardous air pollutant, must obtain a permit from the department prior to the construction or modification. Applications for permits shall be filed not less than sixty days prior to the commencement of the construction or modification. The relocation of temporary installations is not subject to this section.

B. In the event of an emergency, upon oral or written request, the department may grant temporary permission to commence construction prior to the filing of an application for a permit. Confirmation of the permission shall be made in writing by the department. The permission shall expire within thirty days of the date of the written confirmation if the requestor has not filed an application for a permit in accordance with the provisions of Subsection D of this section. The permission shall be deemed revoked in the event that the application for a permit is denied.

C. If a source consists of more than one unit, a separate permit must be obtained for each unit which is not substantially interrelated with another unit. A common connection leading to ductwork, pollution control equipment or a single stack shall not, by itself, constitute a substantial interrelationship.

D. Any person seeking a permit shall do so by filing a written application with the director. Applications shall:

1. be made on forms furnished by the department;

2. state the applicant's name and address;

3. state the date of the application;

4. describe the nature and quantities of any air contaminants the completed construction or modification will emit;

5. be accompanied by:

(a) a map, such as the Topographic Quadrangle map published by the United States Department of the Interior Geological Survey or equivalent map, showing the exact location of the proposed construction or modification;

(b) a process flow sheet, including a material balance, of the processing and combustion plant;

(c) a description of the equipment to be used for air pollution control, including a process flow sheet, or, if the department so requires, layout and assembly drawings;

(d) a description of the equipment or methods to be used for emission measurement; and

(e) such information as the department may require relating to the environmental impact of the proposed source or modification if the department determines that the granting of the permit might constitute a major state action significantly affecting the quality of the human environment.

6. state the expected normal operating schedule of the completed construction or modification in terms of hours per day, days per week, weeks per month and months per year;

7. contain such other relevant information as the department may reasonably require, and

8. be signed by the applicant or his authorized representative.

F. For applications for the construction and modifications of new sources to be located within Bernalillo County, the department may seek the aid of the air quality control staff of the joint Albuquerque-Bernalillo County Air Quality Control Board.

G. The department shall:

1. make available for public inspection a list of all applications for permits;

2. allow all interested persons fifteen days from the date an application is filed to submit written comments on the application; and

3. mail written notice of the action taken on a permit application to those persons who submitted written comments on the application.

H. The department shall within thirty days after the filing of an application for a permit either grant the permit, grant the permit subject to conditions or deny the permit. If the department denies a permit or grants the permit subject to conditions, the department shall notify the applicant by certified mail of the action taken and the reasons therefor. If the department grants a permit, the department shall mail the permit to the applicant by certified mail.

I. The department may deny any application for a permit if:

1. it appears that the construction or modification will not meet applicable regulations;

2. the new source will emit a hazardous air pollutant or air contaminant in excess of a federal standard of performance or a state regulation;

3. it appears that the new source may result in any federal or state ambient air standard being exceeded;

4. any provision of the Air Quality Control Act will be violated; or

5. it appears that the construction of the new source will not be completed within a reasonable time.

J. The issuance of a permit does not relieve any person from the responsibility of complying with the provisions of the Air Quality Control Act and any applicable regulations of the board.

K. The department may impose any reasonable conditions upon a permit, including a schedule of construction and conditions requiring the source to be provided with:

1. sampling ports of a size, number and location as the department may require;

2. safe access to each port;

3. instrumentation to monitor and record emission data; and

4. any other reasonable sampling and testing facilities.

L. The department may grant a conditional permit subject to the later filing of information required by the department relating to the environmental impact of a proposed source or modication if the department has otherwise determined that the source or modification will meet all applicable regulations and will not cause any state or federal ambient air standard to be exceeded. The department shall either grant or deny the permit finally within thirty days of the date the information is filed. The information shall be filed within such time as the conditional permit may require.

M. The department may cancel a permit if the construction is not commenced within one year from the date of issuance or, if during the construction, work is suspended for a total of one year.

N. Thirty days prior to the cancellation of a permit, the department shall notify the permitee by certified mail of the impending cancellation. The department shall notify the permitee by certified mail of the cancellation of his permit and the reasons therefor. A permitee whose permit has been canceled may request a hearing before the board. The request must be made in writing to the director within thirty days after notice of the department's action has been received by the permitee. Unless a timely request for hearing is made, the decision of the department shall be final.

O. If a timely request for hearing is made, the board shall hold a hearing within thirty days after receipt of the request. The department shall notify the permitee by certified mail of the date, time and place of the hearing. In the hearing the burden of proof shall be upon the permitee. The board may designate a hearing officer to take evidence in the hearing. Based upon the evidence presented at the hearing, the board shall sustain, modify or reverse the action of the department.

P. Any owner or operator subject to this section shall notify the department in writing of the:

1. anticipated date of initial startup of a source not more than sixty days nor less than thirty days prior to the date; and

2. actual date of initial startup of a source within fifteen days after the startup date.

Q. Within sixty days after achieving the maximum production rate at which the new source will be operated but not later than one hundred eighty days after initial startup of the new source, the owner or operator of the new source shall conduct a performance test in accordance with methods and under operating conditions approved by the department and furnish the department a written report of the results of the test.

R. Upon application by any person or group of persons, the board may exempt from any or all of the requirements of this section any source or class of sources which the board finds will not unreasonably degrade the ambient air. Exemptions may be granted only at public meetings of the board. No exemption may be granted for a source or class of sources if the source or any one of the sources within the class, if it were uncontrolled, would result in an emission of an air contaminant greater than twenty-five tons per year. Exemptions may apply statewide or regionally and may be revoked by the board at any public meeting.

S. This section does not apply to stationary sources, the construction or modification of which was commenced prior to August 31, 1972.

T. As used in this section:

1. "new source" means any stationary source, the construction or modification of which is commenced after the filing of a regulation applicable to the stationary source or after the filing of an ambient air standard applicable to the area where the stationary source is to be located.

2. "modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air contaminant emitted by the stationary source or which results in the emission of any air contaminant not previously emitted;

3. "construction" means fabrication, erection or installation of an affected facility;

4. "hazardous air pollutant" means an air contaminant which has been classified as a hazardous air pollutant by the administrator of the national environmental protection agency; and

5. "stationary source" means any building, structure, facility or installation which emits or may emit any air contaminant.

U. As used in Subsection M of this section, "commencement" means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction. Otherwise as used in this section, "commencement" means that an owner or operator has undertaken a continuous program of construction.

703. Registration of Air Contaminant Sources

A. By February 1, 1973, the owner or operator of any commercial or industrial stationary source which emits more than two thousand pounds of any air contaminant per year must obtain a registration certificate for the source from the department. The owner or operator of any commercial or industrial stationary source constructed after August 1, 1972, must obtain a registration certificate for the source from the department within one hundred eighty days after the initial startup date of the source.

B. Any person seeking a registration certificate shall do so by filing a written application with the director. Applications shall:

1. be made on forms furnished by the department;

2. state the applicant's name and mailing address;

3. state the name and address of the source;

4. state the date of the application;

5. describe the nature and amounts of any air contaminants emitted from the source;

6. describe the nature of all processes and equipment which produce air contaminant emissions;

7. describe the nature and effectiveness of any air pollution control equipment used;

8. state the fuel used for the generation of heat, steam and power;

9. state the normal operating schedule of the source in terms of hours per day, days per week, weeks per month and months per year;

10. contain such other relevant information as the department may reasonably require, and

11. be signed by the applicant or his authorized representative.

C. Upon the receipt of the information required to be submitted by Subsection B of this section, the department shall issue the registration certificate.

E. Any owner or operator who is subject to this section and intends to shut down a source for a period of one year or more shall notify the department in writing of the actual date of shutdown within fifteen days after the shutdown date.

F. Any owner or operator who is subject to this section and relocates a temporary installation shall notify the department in writing of the date and site of the relocation within fifteen days of the date of relocation.

G. The department may:

1. exempt from the requirement of registration any stationary source or class of stationary sources;

2. reduce the informational requirements contained in Subsection B of this section for any stationary source or class of stationary sources.

3. provide for the filing of a single application and issuance of a single registration certificate for two or more stationary sources owned or operated by the same person; and

4. extend the deadline for registration for any source or class of sources.

H. As used in this section, "stationary source" means any building, structure, facility or installation which emits or may emit any air contaminant.

704. Source Surveillance

A. The owner or operator of any stationary source of an air contaminant shall, upon notification by the department, maintain records of the nature and amounts of emissions, to which an air quality control emission regulation applies, from the source and any other information as may be deemed necessary by the department to determine whether the source is in compliance with applicable regulations.

B. The information recorded shall be summarized and reported to the department, on forms furnished by the department, and shall be submitted within forty-five days after the end of the reporting period. Reporting periods are November 1 through April 30 and May 1 through October 31 or such other periods as the department may deem necessary. Information reported to the department shall be signed by the person responsible for its accuracy.

C. Emission data obtained by the department shall be correlated with applicable emission limitations and other control measures and be made available to the public during normal business hours.

705. Schedules of Compliance

A. No person shall operate a stationary or mobile source of an air contaminant to which applies an Air Quality Control Regulation that imposes an emission limitation or other requirement upon the source on a specific date which occurs after January 1, 1974, and more than one year from the date of the adoption of the regulation, unless the source is operating under a schedule of compliance adopted by the board pursuant to this section or unless the person operating the stationary or mobile source has certified to the board that the source is complying with the requirements of the regulation.

B. Upon petition, the board may, pursuant to the requirement of Subsection A, adopt at any public meeting a schedule of compliance and exempt that schedule of compliance from the remaining requirements of this section if:

1. the petitioner has secured the federal Environmental Protection Agency's approval of the offered schedule of compliance or part thereof; and

2. the petitioner, by complying with the provisions of the federally approved schedule of compliance, will meet the time and emission requirements of the applicable state regulations.

C. Any person seeking the board's approval of a schedule of compliance shall file a written petition with the director by January 1, 1974, or within ninety days of the adoption date of the regulation to be complied with, whichever is later.

D. At a public meeting, pursuant to a written request, the board may extend the time period for the filing of a petition for a schedule of compliance.

E. Petitions shall:

1. state the petitioner's name and address;

2. state the date of the petition;

3. describe the facility for which a schedule of compliance is sought;

4. state the address or description of the property upon which the facility is located;

5. state the regulation and the applicable provisions of the regulation for which a schedule of compliance is sought;

6. include, to the extent practicable, the following increments of progress:

(a) a date or dates by which contracts for each major phase of emission control systems or process modification, or orders for their components parts, will be awarded;

(b) a date or dates of initiation of each major phase of on-site construction or installation of emission control equipment or process modification;

(c) a date or dates by which each major phase of on-site construction or installation of emission control equipment or process modification is to be completed; and

(d) a date or dates by which final compliance is to be achieved.

7. describe in detail the methods or devices to be used to achieve compliance with the applicable regulation; and

8. state why the petitioner believes the schedule of compliance should be approved.

F. The department shall make available for public inspection a copy of each petition at its central office in Santa Fe and at its field office which is located nearest to the source in the same air quality control region wherein the source is located.

G. The petitioner may submit with his petition any relevant documentation or material which the petitioner believes would support his petition.

H. The director, with the approval of the board, within ten days of receipt of a copy of the petition filed with the board, shall notify the petitioner by certified mail of the date, time and place of the public hearing on the petition for a schedule of compliance.

I. At least thirty days prior to the hearing date, the director shall publish notice of the date, time, place and subject matter of the hearing in a newspaper of general circulation in the county in which the facility is located and in a newspaper of general circulation in the state.

J. The director shall maintain a file of persons interested in schedule of compliance hearings and shall make a reasonable effort to notify those persons by mail of the date, time, place and subject matter of the hearing.

K. Public hearings shall be held by the board not more than sixty days from the date the director mails the notice of the hearing to the petitioner.

L. Public hearings shall be held in Santa Fe unless the board and the petitioner agree upon another site in the state.

M. The board may designate a hearing officer to take evidence at the hearing.

N. A record shall be made at each hearing, the cost of which shall be borne by the department. Transcript costs shall be paid by those persons requesting transcripts except that the department shall bear the cost of any transcript furnished to members of the board and the Environmental Protection Agency.

O. In schedule of compliance hearings, the technical rules of evidence and the rules of civil procedure shall not apply, but the hearings shall be conducted so that all relevant views are amply and fairly presented without undue repetition. The board may require reasonable substantiation of statements or records tendered and may require any view to be stated in writing when the circumstances justify.

P. At the hearing, the board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing and shall allow reasonable cross-examination of witnesses testifying at the hearing.

Q. A petitioner may represent himself at the hearing or be represented by any other individual.

R. On the basis of the petition and the information developed at the public hearing, the board shall, within 60 days of receipt of the transcript, adopt a schedule of compliance. Schedules of compliance shall:

1. state the petitioner's name and address;

2. state the date of adoption of the schedule of compliance;

3. describe the facility to which the schedule of compliance applies;

4. identify all sources within the facility and all air contaminants emitted from the facility to which the schedule of compliance applies;

5. state the address or description of the property upon which the facility is located;

6. identify the regulatory provisions covered by the schedule of compliance;

7. state the increments of progress that must be followed by the petitioner to achieve compliance with the applicable regulations as expeditiously as practicable;

8. state any conditions which may apply to the schedule of compliance; and

9. state the board's reasons for the increments of progress and conditions imposed.

S. Any petitioner who has obtained a schedule of compliance from the board shall certify to the board, within five days after the deadline for each increment of progress, whether or not the required date has been met.

T. If it appears to the holder of an approved schedule of compliance that he will be unable to meet any increment of progress, he shall apply to the board for a modification of the schedule thirty days prior to the first increment date that will not be met. The application for modification shall state which dates will not be met and the reasons therefor. If the application does not request a modification of the final compliance date for meeting the applicable regulations, the board shall act upon the application at its next public meeting. If the application requests a modification of the final compliance date, the board shall hold a public hearing in accordance with Subsections G through P of this section and act upon the application on the basis of the information developed at the hearing.

706. Air Quality Maintenance Areas

A. The counties of Bernalillo, Chaves, Dona Ana, San Juan, and Santa Fe are designated as Air Quality Maintenance Areas. Air pollutants for which these areas are designated are:

1. carbon monoxide, photochemical oxidants, and total suspended particulate matter within Bernalillo county;

2. carbon monoxide and total suspended particulate matter within Dona Ana and Santa Fe counties; and

3. carbon monoxide within Chaves and San Juan counties.

B. As used in this section, "Air Quality Maintenance Area" means that area which, due to current air quality or projected growth, has the potential for exceeding a national ambient air quality standard within ten years from the date of adoption of this regulation.

801. Upset, Breakdown or Scheduled Maintenance

Operation of any equipment or air pollution control devices or apparatus so as to cause emissions of air contaminants in excess of limits set by these regulations which is a direct result of upset conditions or breakdown or is a direct result of the shutdown of such equipment or air pollution control devices or apparatus for scheduled maintenance, is not a violation of these regulations provided:

A. The occurrence has been reported to the Department at least 24 hours before any scheduled maintenance, and the scheduled maintenance is performed where possible during times specified by the Department as favorable for atmospheric ventilation.

B. The occurrence has been reported to the Department as soon as reasonably possible in the case of an upset or breakdown, but in no case more than 24 hours after occurrence.

C. Repairs are made with maximum, reasonable effort, including use of off-shift labor, overtime, or work periods of nonoperation.

D. The emission of air contaminants is minimized as much as possible during the scheduled maintenance, upset or breakdown.

E. The air contaminant is not of a nature or quantity which would endanger public health or safety.

F. Upsets or breakdowns do not occur with such frequency that careless, marginal or unsafe operation is indicated.

901. To Control Emissions Leaving New Mexico

When emissions generated from sources in New Mexico cross the state boundary line, such emissions shall not exceed the standards and regulations of the receiving state, provided, regulations are in effect and reciprocal action is taken by the receiving state.

1001. Sampling Equipment

When directed by the Board, or its designated representative, the necessary openings for sampling equipment shall be provided on stacks or other openings through which emissions are released to the atmosphere.

1101. Severability

If any part or application of the air pollution control regulations is held invalid, the remainder of its application to other situations or persons shall not be affected.

1201. Effective Date

As to new equipment and new air pollution control devices or apparatus, the Air Quality Control Regulations shall be in effect 30 days after the regulations are filed with the State Records Center. These regulations shall be in effect 30 days after filing with the State Records Center, except that existing operations equipment and existing air pollution control devices shall be brought into conformance by July 1, 1970, unless otherwise specified in the regulations.

1301. Conflicts

Nothing in these Ambient Air Quality Standards and Air Quality Control Regulations is intended to permit any practice which is a violation of any statute, ordinance or regulation.

AIR POLLUTION CONTROL REGULATIONS OF THE ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

Section 1. Definitions. The following words and phrases have the following meanings unless the context in which they are used requires otherwise:

1.01 "Air Contaminant" means any substance, including but not limited to any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof, or any decay or reaction product thereof.

1.02 "Air Pollution" means the emission, except as such emission occurs in nature, into the outdoor atmosphere of one or more air contaminants in such quantities and duration as may with reasonable probability injure human health, animal or plant life, or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property.

1.03 "Air Pollution Potential Index" (APPI) means a number on a scale ranging from 0 to 100 indicating the state of the lower atmosphere from the ground to the top of the radiation temperature inversion. The number 0 indicates that the state of the lower atmosphere is such that the likelihood of air contaminants being held close to the ground is rare. As the index number increases from 0 to 100, the atmospheric temperature inversion and other meteorological factors become such that air contaminants will be concentrated in the air close to the ground.

The Air Pollution Potential Index is calculated using the U.S. Weather Service 1200 Greenwich Mean Time upper air soundings or other upper air soundings of temperature lapse rate, relative humidity, and wind speed and direction. The Air Pollution Potential Index is calculated from this and other meteorological data.

Method of Calculation: Using the equation,

$$(T_2 - T)\ (100° - 0°)\ (RH)\ (W_f) = APPI.$$

T_1 = Temperature at base of inversion.

T_2 = Temperature at top of inversion.

0 = Angle inversion makes with horizontal pressure line. Use WBAN31/A Form 610-14A revised (7064).

RH = Average Relative Humidity through the inversion layer.

W_f = Wind speed factor. Average wind speed through the inversion.

/35'

Use the following table.

Wind Speed in Knots	Factor
0-1	1.0
2-5	.9
6-10	.6
11-20	.3
20	.1

1.04 "Board" means the joint board established by the City of Albuquerque and Bernalillo County responsible for the adoption, promulgation and administration of the Air Pollution Control Regulations and Ambient Air Quality Standards and for the enforcement of the Air Pollution Control Regulations.

1.05 "Chemical Processes" means any manufacturing processing operation in which one or more changes in chemical composition, chemical properties or physical properties are involved, to include but not limited to: pulp and paper mills; iron and steel mills; petroleum refineries; smelters; inorganic chemical manufacturers such as fertilizer, gypsum, lime, cement or asbestos manufacturers and organic chemical manufacturers such as synthetic rubber or acid manufacturers.

1.06 "Coal Burning Equipment" Any device used for the burning of coal for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with other materials.

1.07 "Crematory" means a device for cremating human remains.

1.08 "Environmental Health Department" means the Environmental Health Department of the City of Albuquerque, New Mexico.

1.09 "Fugitive Dust" means solid airborne particulate matter emitted from any source other than a stack, flue or duct.

1.10 "Grain" means that unit of weight which is equivalent to 0.0648 grams.

1.11 "Incinerator" means any device intended or used for burning waste material.

1.12 "Inedible Animal By-product Processing" means operations primarily engaged in rendering, cooking, drying, dehydrating, digesting, evaporating, and/or concentrating of animal proteins and fats.

1.13 "Kraft Mill" means any pulping process which uses, for a cooking liquor, an alkaline solution.

1.14 "Open Burning" means any burning from which the products of combustion are discharged directly into the open air without passing through a chimney, flue, stack or duct.

1.15 "Particulate Matter" means any material except uncombined water which exists in a finely divided form as a liquid or solid at standard temperature and pressure.

1.16 "Pathological Destructor" means a device for the destruction by burning of diseased tissue or disease producing matter.

1.17 "Person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representatives, agents or assigns.

1.18 "ppm" means part per million by volume.

1.19 "Process Equipment" means any equipment used for storing, handling, transporting, processing, or changing any materials whatever but excluding that equipment specifically defined in these Regulations as incinerators and includes coal burning equipment.

1.20 "Process Weight" means the total weight of all materials introduced into any specific process which process causes any discharge of air contaminants into the atmosphere. Solid fuels introduced into any specific process will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

1.21 "Process Weight Rate" means the hourly rate derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, or from the beginning to the completion of a typical portion thereof, excluding any time during which the equipment is idle.

1.22 "Reid Vapor Pressure" means the pressure determined according to the American Society for Testing and Materials method, ASTM-Designation: D323-58.

1.23 "Ringelmann Chart" means the Ringelmann smoke chart of comparative smoke densities as published by the U.S. Bureau of Mines or an equivalent Ringelmann "type" chart.

1.24 "Secretary" means the Secretary of the Board or his authorized representatives.

1.25 "Smoke" means small gas borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively of carbon, ash, and other combustible materials.

1.26 "Standard Conditions" means the conditions existing at a temperature of 70° Fahrenheit and pressure of 14.7 lbs. per square inch absolute.

1.27 "Standard Cubic Foot" means a measure of the volume of one cubic foot of gas at standard conditions.

1.28 "Tons/hr." means tons per hour.

1.29 "Total Reduced Sulfur" (TRS) means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present in a pulping process.

1.30 "Vapors" means the gaseous form of a substance normally in the liquid or solid state.

1.31 "lb/hr." means pounds per hour.

Section 2. Open Burning

2.01 Open burning is prohibited with the following exceptions:

A. Open burning is allowed for the following purposes: religious, ceremonial, educational, non-commercial cooking and recreational bonfires.

B. Open burning for the following purposes is allowed, but only between the hours of 10:00 a.m. and 4:00 p.m., with combustion to be completed or extinguished by 4:00 p.m., and then only when the Air Pollution Potential Index is under 50:

1. Fires set for the purpose of educating or training fire fighting or fire-rescue personnel;

2. Fires set on a field used for growing crops in the course of disposing of unused portions of a crop and intermingled weeds resulting from farming;

3. Burning dried-out tumbleweeds.

4. Burning weeds when necessary for the maintenance of flood control channels, irrigation ditches and drains if accomplished by using a hot flame burner; burning weeds which constitute a fire hazard if approved by the City or County appropriate authority.

C. The open burning of dry waste materials produced by the use of property for residential purposes all of which lies outside the City of Albuquerque is allowed until January 1, 1972 and thereafter is prohibited. Until January 1, 1972, such materials may be burned only between the hours of 10:00 a.m. and 4:00 p.m., with combustion to be completed or extinguished by 4:00 p.m., and then only when the Air Pollution Potential Index is under 50.

2.02 Open burning of animal waste, green plants, leaves, tar products, oil, rubber, plastic or like materials which produce smoke is prohibited even in cases where open burning is otherwise expressly allowed by this section.

Section 3. Incinerators

3.01 The use or operation of an incinerator on property devoted to residential uses is prohibited.

38

3.02 The construction, use or operation of a new incinerator on any property within the City of Albuquerque is prohibited.

3.03 The use or operation of any incinerator on any property within the City of Albuquerque after January 1, 1976, is prohibited.

3.04 Any modification, alteration, remoldeling or reconstruction of any incinerator located within the City of Albuquerque which will cost an amount equalling more than 50% of the original cost of such incinerator is prohibited, and if an incinerator needing such work cannot be operated in conformance with these regulations, its further use or operation is prohibited.

3.05 Sections 3.02, 3.03 and 3.04 do not apply to crematories or pathological destructors.

3.06 No person may release or discharge into the atmosphere from any incinerator particulate matter in excess of 0.10 grains per standard cubic foot of dry exhaust gas calculated to 12% of carbon dioxide (CO_2) at standard conditions. In measuring the combustion contaminants from incinerators used to dispose of combustible refuse by burning, the carbon dioxide (CO_2) produced by combustion of any liquid or gaseous fuel shall be excluded from the calculation to 12 percent of carbon dioxide (CO_2). This regulation shall not apply to the five (5) minute time period which is necessary to bring wood-waste type incinerators up to operating temperatures.

3.07 Crematories and pathological destructors shall comply with the emission limits specified in Section 3.06 by January 1, 1972.

3.08 No person shall use or operate an incinerator between sunset and the following sunrise; unless such incinerator is equipped with a continuous monitoring and recording device as approved by the Secretary.

Section 4. Visible Air Contaminants

4.01 General. No person shall cause or allow to discharge into the atmosphere, from any source whatsoever, any air contaminants as dark or darker in shade as that designated as No. 1 on the Ringelmann Chart or of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart, except as follows:

A. Emissions permitted under Section 2 of these regulations.

B. Where the presence of uncombined water is the only reason for failure to meet the limitations herein.

C. Diesel engines when -

1. Accelerating under a load may emit smoke for a maximum period of 10 seconds which is not as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart or of such opacity as to

obscure the observer's view to a degree greater than that designated as No. 2 on the Ringelmann Chart; or when used in vehicles operating off public roads or highways may emit smoke for a maximum period of 15 seconds which is not as dark or darker in shade as that designated as No. 3 on the Ringelmann Chart or of such opacity as to obscure the observer's view to a degree greater than that designated as No. 3 on the Ringelmann Chart.

2. When being started cold, may emit smoke for a maximum period of 20 minutes which is not as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart or of such opacity as to obscure the observer's view to a degree greater than that designated as No. 2 on the Ringelmann Chart.

D. Turbine type aircraft engines may emit smoke which is not as dark or darker in shade than that designated as No. 3 on the Ringelmann Chart until December 31, 1972; thereafter the emission shall not be as dark or darker in shade than that designated as No. 2 on the Ringelmann Chart.

E. When dry wood or paper is burned, residential fireplaces are not subject to the provisions of this section.

F. Wood-waste type incinerators may emit smoke the shade of which is not darker than that designated as No. 2 on the Ringelmann Chart or of such opacity as to obscure the observer's view to a degree greater than that designated as No. 2 on the Ringelmann Chart for a period of 5 consecutive minutes, but only once each day when such incinerator is being started.

4.02 Gasoline Engines. No person shall cause or allow the emission of any visible air contaminants into the atmosphere from any four-cycle gasoline engine except for a period of five seconds after the engine is started.

Section 5. Orchard Heaters

5.01 No person shall construct, place, maintain, alter, use or operate orchard heaters for frost protection or otherwise unless they are so designed or equipped and are operated or regulated, so as not to discharge into the atmosphere smoke as dark as or darker in shade as that designated as No. 1 in the Ringelmann Chart or of such opacity as to obscure the observer's view to a degree greater than that designated as No. 1 on the Ringelmann Chart.

5.02 Prohibition of Sale of Heaters. No person shall give, sell, or offer to sell for use for frost protection within the County of Bernalillo any orchard heater which does not comply with subsection 5.01 of this regulation or which cannot be modified to comply with subsection 5.01.

5.03 Inspections. All persons subject to the provisions of Section 5 shall cooperate with agents of the Environmental Health Department in performing orchard heater inspections to obtain information relating to emissions which may cause or contribute to air pollution.

5.04 Effective Date. This section becomes effective January 1, 1973.

Section 6. Motor Vehicle Air Pollution Emission Control Devices

6.01 No person shall remove from an operable motor vehicle any motor vehicle air pollution emission control system or device installed on or incorporated in a motor vehicle or motor vehicle engine under the requirements of any federal law or regulations.

6.02 No person shall fail to maintain in operating condition any motor vehicle air pollution emission control system or device installed on or incorporated in a motor vehicle or motor vehicle engine under the requirements of any federal law or regulation.

6.03 No person shall operate any motor vehicle which does not have installed on or incorporated in the motor vehicle or motor vehicle engine in operating condition a motor vehicle air pollution emission control system or device required by any federal law or regulation.

6.04 Section 6.01 shall not apply to motor vehicles constructed or operated as racing cars. Sections 6.02 and 6.03 shall not apply to motor vehicles constructed or operated as racing cars when they are raced off public roads or highways, or when raced on public roads or highways pursuant to permission granted by the governmental authority which owns, operates or controls such public road or highway.

6.05 Section 6 shall not apply to motor vehicles which have been constructed or modified to operate by the use of liquefied petroleum or natural gas.

Section 7. Dust, Sand, Particulates

7.01 General. No person shall engage in any of the following activities and activities incidental hereto without taking reasonable precautions to prevent particulate matter from becoming airborne: dismantling buildings; construction, public or private; processing sand, gravel or rock which includes crushing, sizing, screening, cleaning and mixing; operation of machinery or equipment; use of land. Reasonable precautions may include but are not limited to the use of water, vegetation or plants, paving, coverings or enclosures.

7.02 Unpaved Roads

A. General. In the event that the density of motor vehicle traffic on unpaved roads of any kind or description exceeds the amounts stated on the following table, such roadway shall be closed to motor vehicle traffic unless the owner or operator thereof takes reasonable precautions to effectively and substantially reduce or prevent the emission of dust into the atmosphere on account of such traffic:

Roadway Segment Length	Motor Vehicle Density	Frequency
Length of roadway segment in miles	Number of motor vehicles traveling on segment in a one hour period	Number of one hour periods in one week when density is exceeded
0 to 1/4	120	1
greater than 1/4 to 1/2	60	2
greater than 1/2	30	3

B. "Reasonable precautions" include but are not limited to paving, regular application of oil, frequent watering or any other means of equal or greater effectiveness in reducing or preventing the emission of dust.

C. If the owner or operator of a roadway does not close the roadway permanently or temporarily, dust emission abatement measures shall be commenced as soon as is possible.

D. Application of Regulation to Unpaved Parking Areas. Section 7.02 shall apply to unpaved areas used for the parking of motor vehicles. For the purpose of applying the table in Section 7.02A to unpaved parking areas, the area of the parking area shall be converted to a roadway length with a 32 foot width as follows:

$$\text{Equivalent roadway segment length in miles} = \frac{\text{total area in square feet of parking area}}{(32)\ (5280)\ \text{square feet}} \quad \text{miles}$$

7.03 Removing or Disturbing Topsoil. No person shall disturb or remove topsoil from an area larger than 1/3 acre in size until first receiving a permit therefor from the Secretary. The person shall subsequently take reasonable precautions within a reasonable time to prevent particulate matter from becoming airborne because of disturbing or removing such topsoil. This does not apply to areas zoned and used for agriculture.

Applications for permits shall be made on forms prescribed by the Secretary. Such forms shall require disclosure of the following information:

A. Name, address and telephone number of applicant.

B. Address or legal description of property.

C. Size of the parcel or area.

D. Description of nature of work to be done.

E. Time period in which work and control measures are to be done.

F. Statement of measures to be used to control or prevent particulate matter from becoming airborne.

The permit shall be issued by the Secretary if the application form is fully and accurately filled out and if it discloses that reasonable precautions will be taken as required to prevent particulate matter from becoming airborne.

7.04 Sandblasting. No person shall conduct sand or other abrasive blasting operations without taking reasonable precautions to prevent particulate matter resulting therefore from leaving the premises upon which such work is being done. Reasonable precautions include the use of enclosures or other means of equal effectiveness in reducing or preventing the emission particulates.

7.05 Demolition Permits. No person shall demolish any building containing over 75,000 cubic feet of space without first obtaining a permit therefor from the Secretary and subsequently taking reasonable precautions to prevent particulate matter from becoming airborne on account of such activity.

Applications for permits shall be made on forms prescribed by the Secretary. Such forms shall require disclosure of the following information:

A. Name, address and telephone number of applicant.

B. Address or legal description of property.

C. Size of building.

D. Description of nature of work to be done.

E. Time period in which work is to be done.

F. Statement of measures to be used to control or prevent particulate matter from becoming airborne.

The permit shall be issued by the Secretary if the application form is fully and accurately filled out as required and if it discloses that reasonable precautions will be taken to prevent particulate matter from becoming airborne.

Section 8. Process Equipment

8.01 Except as otherwise provided in this section, no person shall cause or allow the emission of particulate matter to the atmosphere from process equipment in any one hour in total quantities in excess of the amount shown in the following table:

Process Wt/hr (lbs)	Maximum Weight Disch/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Disc/hr (lbs)
50	.24	3400	5.44
100	.46	3500	5.52
150	.66	3600	5.61
200	.85	3700	5.69
250	1.03	3800	5.77
300	1.20	3900	5.85
350	1.35	4000	5.93
400	1.50	4100	6.01
450	1.63	4200	6.08
500	1.77	4300	6.15
550	1.89	4400	6.22
600	2.01	4500	6.30
650	2.12	4600	6.37
700	2.24	4700	6.45
750	2.34	4800	6.52
800	2.43	4900	6.60
850	2.53	5000	6.67
900	2.62	5500	7.03
950	2.72	6000	7.37
1000	2.80	6500	7.71
1100	2.97	7000	8.05
1200	3.12	7500	8.39
1300	3.26	8000	8.71
1400	3.40	8500	9.03
1500	3.54	9000	9.36
1600	3.66	9500	9.67
1700	3.79	10000	10.00
1800	3.91	11000	10.63
1900	4.03	12000	11.28
2000	4.14	13000	11.89
2100	4.24	14000	12.50
2200	4.34	15000	13.13
2300	4.44	16000	13.74
2400	4.55	17000	14.36
2500	4.64	18000	14.97
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30
3000	5.10	50000	34.30
3100	5.18	60000 or more	40.00
3200	5.27		
3300	5.36		

A. To use the Table take the process weight per hour, as such is defined in Section 1.20. Then find this figure on the table, opposite which is the maximum number of pounds of contaminants which may be discharged into the atmosphere in any one hour. As an example, if A has a process which emits contaminants into the atmosphere and which process takes 3 hours to complete, he will divide the weight of all materials in the specific process, in this example. 1,500 lbs. by 3 giving a process weight per hour of 500 lbs. The table shows that A may not discharge more than 1.77 lbs. in any one hour during the process. Where the process weight per hour falls between figures in the left hand column, the exact weight of permitted discharge shall be interpolated.

B. For purposes of this regulation, the total process weight from all similar process units at a plant or premises shall be used for determining the maximum allowable emission of particulate matter that passes through a stack or stacks. The process weight rate shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

8.02 Gypsum Cookers. Section 8.01 shall not apply to gypsum cookers or kettles constructed prior to the effective date of these regulations. No person shall cause or allow the emission of particulate matter into the atmosphere in any one hour from gypsum cookers or kettles constructed prior to the effective date of these regulations in total amounts which exceed 0.3 gr/scf of exhaust gas.

8.03 Asphaltic Batch Plants. Section 8.01 shall not apply to an asphaltic batch plant. No person shall cause or allow the emission of particulate matter into the atmosphere in any one hour from any or all operations of an asphaltic batch plant in total quantities in excess of the amount shown on the following table:

Process Rate Pounds Per Hour	Total Emission Rate Pounds Per Hour
10,000	10
20,000	15
30,000	22
40,000	28
60,000	31
100,000	33
200,000	37
300,000 and above	40

For a process weight between any two consecutive process weights in the table, the emission limitation shall be determined by interpolation. Where the plant has more than one emission point, the emission total is that from all emission points.

8.04 Measurement. For purposes of Section 8 any measurement of emissions into the atmosphere may be made by comparing the weight of materials before and after processing or by measurements taken after particulate emissions have passed through air pollution control devices or apparatus, if any, or by other reasonably accurate methods or procedures.

8.05 Fugitive Dust. No person shall operate process equipment which emits fugitive dust into the atmosphere unless reasonable effective precautions are taken to prevent fugitive dust from being emitted into the atmosphere.

Section 9. Kraft Mills

9.01 No person shall discharge into the atmosphere in any one hour from any and all operations of a Kraft Mill, total reduced sulfur in excess of 0.01 pounds.

Section 10. Control of Hydrocarbons

10.01 Storage. The storage of any petroleum product with a Reid vapor pressure of 1.5 pounds per square inch or greater in a stationary tank, reservoir, or other container of 40,000 gallons or greater capacity is prohibited unless reasonable precautions are taken to prevent vapors from being released into the atmosphere.

A. Reasonable effective precautions include but are not limited to the following:

1. A floating roof, consisting of a pontoon-type or double deck type roof, resting on the liquid and equipped with an effective, well maintained closure seal, to close the space between the roof edge and the tank wall.

2. Effective vapor recovery system(s).

3. Pressure tank(s) which operate(s) at pressures greater than atmospheric and which allow(s) no vapors to be emitted into the atmosphere.

4. Floating plastic blanket(s).

5. Vapor balance system(s).

6. Vapor disposal system(s).

7. Painting of the exterior roof and shell of the storage tank to reflect radiation.

B. Section 10.01 shall not apply to any stationary storage tank, reservoir, or other container of more than 40,000 gallons constructed before the effective date of this section, but shall apply to all such containers which subsequently undergo extensive repair or modification to roof or vapor recovery system and to all such containers constructed after the effective date of this section.

10.02 Volatile Hydrocarbons, Loading and Unloading. No person shall load or unload any volatile hydrocarbon with a Reid vapor pressure of 4.0 pounds per square inch or greater into any stationary storage tank or portable transport tank or tanker unless reasonable precautions are taken to prevent the escape of hydrocarbon vapors into the atmosphere.

A. Reasonable precautions include but are not limited to the following:

1. A permanent submerged fill pipe the discharge opening of which is entirely submerged when the liquid level is 6" above the bottom of such tank.

2. Vapor recovery or return systems.

3. Leak-proof connections.

B. The provisions of section 10.02 apply only to tanks or containers of 250 gallons or larger capacity.

10.03 Provisions of this section shall become effective October 1, 1971.

Section 11. Upset, Breakdown or Scheduled Maintenance

11.01 Operation of any equipment or air pollution control devices or apparatus so as to cause emissions of air contaminants in excess of limits set by the air pollution control regulations, which is a direct result of upset conditions or breakdown or is a direct result of the shut-down of such equipment or air pollution control devices or apparatus for scheduled maintenance. is not a violation of the air pollution control regulations, provided:

A. As to scheduled maintenance, the occurrence is reported in advance to the Secretary during his working hours, and that such work is performed during periods of non-operation and when the Air Pollution Potential Index is under 50.

B. As to upset or breakdown, the occurrence has been reported to the Secretary as soon as practicable but no later than 2 hours after the occurrence, except that when the Secretary's office is closed such report shall be made within 2 hours after said office re-opens for regular business.

C. Repairs are made with maximum, reasonable effort, including use of off-shift labor, overtime, or work periods of non-operation.

D. The emission of air contaminants is minimized as much as reasonably possible during the upset, breakdown or scheduled maintenance.

E. In the event of emission of air contaminants of a nature or in quantities which would endanger public health or safety, such emission is stopped entirely or reduced to harmless levels as soon as possible.

F. Upsets or breakdown do not occur with such frequency that careless, marginal or unsafe operation is indicated.

Section 12. Authority to Construct

12.01 General. No person shall install, construct, erect, alter or replace any of the articles, machines, equipment or contrivances listed in Section 12.02 without receiving authorization for such construction from the Secretary and paying the fee listed in Section 12.03. Nor shall any person install, construct, erect, alter, or replace to existing articles, machines, equipment, or contrivances listed in Section 12.02 without receiving authorization for such addition or remodeling from the Secretary and paying up to seventy-five percent (75%) of the fees listed in Section 12.03.

12.02 Articles, etc. (Articles, machines, equipment or contrivances for which authority to construct is required are the following:)

A. Fuel burning equipment which produces indirect heat which is non-gas fired or gas fired equipment which has the capability of burning other type fuel. (not including those for use in 1 or 2 family residences)

B. Crematories and/or pathological destructors.

C. Asphaltic batch plants.

D. Those which blow asphalt.

E. Those which involve crushing, processing, sizing, screening, cleaning, mixing or handling sand, gravel or rock.

F. Those which involve sandblasting and/or other abrasive cleaning.

G. Those which involve chemical processes.

H. Those which involve inedible animal by-product processing.

I. Feed mills.

J. Stationary petroleum product liquid or gas storage tank, 40,000 gallons or greater capacity.

12.03 Fees - Authority to Construct

A. Non-gas-fired or gas fired burning equipment with provisions for burning non-gas fuels for producing indirect heat other than those used in one and two-family residences.

1. Maximum fuel input less than 4,000,000 BTU per hour - fee $10.00.

2. Fuel input of 4,000,000 BTU or more per hour and less than 20,000,000 BTU per hour - fee $25.00.

-48-

3. Fuel input of 20,000,000 BTU or more per hour and less than 200,000,000 BTU per hour - fee $50.00.

4. Maximum fuel input of 200,000,000 BTU or more per hour - fee $100.00.

B. Asphaltic batch plant - $100.00.

C. Asphalt blowing - fee $75.00.

D. Dust-producing operations.

1. Sand, rock, gravel, screening, crushing, sizing, cleaning, or mixing, each - fee $50.00.

2. Operations handling or transferring sand or dust-producing materials; e.g., concrete batching, bentonite transferring, sand blasting etc. - fee $25.00.

E. Chemical process units - fee $150.00.

F. Inedible animal by-product processing - fee $50.00.

G. Stationary tank, reservoir, or other container, of more than 40,000 gallons capacity containing gasoline or any petroleum distillate having a Reid vapor pressure of 1.5 pounds per square inch or greater - fee $25.00.

In the event that more than one fee schedule is applicable the governing schedule shall be that which results in the higher fee. The fee charged for alterations shall be based upon the ratio of the cost of alterations over the original cost, but shall not be less than $15.00 nor more than 100% of the applicable fee.

H. Crematories and/or pathological destructors - fee $25.00.

12.04 Applications. Applications for authority to construct shall be made on forms prescribed by the Secretary, and the applicant shall give all information necessary to enable the Secretary to make the determination required in Section 12.05. The Secretary shall grant or deny the application within a reasonable time and shall notify the applicant of his action in writing stating reasons for any denial.

12.05 Standards for Granting or Denying Applications. The Secretary shall deny an authority to construct if the applicant does not show that every article, machine, equipment or contrivance is so designed, controlled or equipped that it may be expected to operate without emitting or causing to be emitted air contaminants in violation of applicable parts of these regulations.

12.06 Conditions. The Secretary may impose conditions upon the applicant in the authority to construct which require the applicant to construct and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment or contrivance described in the authority to construct. Such conditions will refer to such things as the size, number and location of sampling holes; the size and location of sampling platform; the access to sampling platform; the utilities for operating the sampling and testing equipment; and the personal safety of men engaged in sampling and testing activities.

12.07 Expiration of Authority to Construct. If not used, an authority to construct automatically expires 12 months after the date of issuance.

12.08 Evidence of Authority to Construct. The Secretary shall issue along with an authority to construct a sticker, plaque or other evidence of authority to construct which shall be affixed to and kept on (or nearby) the item for which it was issued. No person shall deface, alter, forge, counterfeit or falsify such plaque, sticker or other evidence.

12.09 Transfer. An authority to construct is not transferable.

12.10 Payment. All fees required by this section shall be paid at the time applications are filed with the Secretary. No fees are refundable. Any authorization for construction issued under the provisions of this section but not paid for is void.

12.11 Compliance. The grant of an authority to construct shall not relieve any person from complying with these regulations.

12.12 Effective Date. This section becomes effective January 1, 1972.

Section 13. Annual Inspection and Registration

13.01 General. No person shall operate any of the articles, machines, equipment or contrivances listed in Section 13.02 without paying the annual fee therefor specified in Section 13.03 and receiving an annual certification of inspection and registration.

13.02 Articles, Machines, Equipment, Contrivances. Articles, machines, equipment or contrivances for which an annual certificate of inspection and registration are required are the following:

A. Non-gas-fired fuel burning equipment for producing indirect heat other than that used in one or two-family residences and all fuel burning equipment rated at greater than 4,000,000 BTU per hour regardless of the type of fuel burned.

B. Crematories and/or pathological destructors.

C. Asphaltic batch plants.

D. Asphalt blowers.

E. Sand, rock, screening and crushing, gravel operations.

F. Stationary operations handling or transferring sand or dust producing materials.

G. Chemical processes.

H. Inedible animal by-product processing.

I. Stationary gasoline storage tanks of less than 40,000 gallons but greater than 250 gallons.

J. Stationary gasoline or petroleum distillate container of more than 40,000 gallons capacity having a Reid vapor pressure of 1.5 pounds per square inch or greater.

K. Sand blasting or abrasive cleaning.

L. Feed milling operations.

M. Paint and varnish manufacturing.

13.03 Annual Fee. The annual fee is $15.00.

13.04 Time to Obtain Certificates and Pay Fees.

A. The annual certificate of inspection and registration shall be issued on a calendar year basis.

B. Such certificates shall be obtained annually and the required fees therefor paid on or before January 1st of each year.

C. No reduction in fees will be allowed for certificates covering less than one year.

13.05 Applications

A. Applications for annual certificates of inspection and registration shall be made on forms prescribed by the Secretary.

B. Such forms shall require the disclosure of the following information:

1. Name, address and telephone number of owner or operator.

2. Address or legal description of the air contaminant source.

3. Nature of air contaminants emitted.

4. Quantities of air contaminants emitted.

5. Description of the article, machine, equipment or contrivance which produces or emits the air contaminants.

6. Description of air pollution control processes, devices or apparatus, if any.

7. Such other information as may be necessary to enable the Secretary to determine the nature and quantity of air contaminants emitted or to make the necessary inspection.

C. The certificate shall be issued by the Secretary upon completion of the prescribed application forms and payment of the required fee.

13.06 Display. The certificate issued by the Secretary shall be affixed to and kept on (or nearby) the item for which it was issued. No person shall deface, alter, forge, counterfeit or falsify said certificate.

13.07 Transfer. A certificate of inspection and registration is not transferable.

13.08 Lack of Emission Limits. The lack of emission limits or controls in this regulations for items requiring a certificate of inspection and registration does not bar the requirement of such certificate.

13.09 Failure to Pay. Any certificate issued under the provisions of this section but not paid for is void.

13.10 Compliance. The issuance of a certificate of inspection and registration shall not relieve any person from compliance with these regulations.

13.11 Annual Inspections. The Secretary shall inspect the Air contaminant sources listed in Section 13.02 annually, or oftener if necessary, to determine compliance with these regulations.

13.12 Effective Date. This section becomes effective January 1, 1972.

Section 14. Administration and Enforcement

A. The Secretary shall administer and enforce these regulations.

B. The Secretary is authorized to take any action or enter any premises for the purpose of administering or enforcing these regulations, which purpose includes but is not limited to investigation, inspection, testing and sampling.

C. Upon request of the Secretary the person responsible for the emission of air contaminants for which limits are established by these regulations shall provide such facilities, utilities, and openings exclusive of instruments and sensing devices, as may be necessary for the proper determination of the nature, extent, quantity and degree of such air contaminants. Such facilities may be either temporary or permanent at the discretion of the person responsible for their provision; shall be suitable for determinations consistant with emission limits established in these regulations; and shall be safe to work on as well as complying with safety laws, if any.

5

D. No person shall hinder, obstruct, delay, resist, prevent or in any way interfere, or attempt to interfere, with the Board. the Secretary or their authorized representatives while engaged in the performance of their work or duties.

E. No person shall fail to comply with these regulations.

Section 15. Repeal. Those ambient air quality standards and air pollution control regulations enacted by the Board by a resolution passed on July 29, 1968, are repealed.

Section 16. Savings Clause. These regulations do not apply to violations of previous regulations of the Board committed prior to the effective date of these regulations. Violations committed prior to the effective date of these regulations shall be dealt with in accordance with the regulations in force at the time the violation occurred.

Section 17. Severability. If any part or application of these regulations is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 18. Interpretation. Except as expressly provided to the contrary in these regulations, whenever two or more parts of these regulations limit, control or regulate the emissions of a particular air contaminant, the more restrictive or stringent shall govern.

Section 19. These regulations apply throughout Bernalillo County.

Section 20. Permits.

20.01 Any person constructing or modifying any new source of air contaminants, which source, if it were uncontrolled, would result in an emission of contaminants, greater than ten pounds per hour or twenty five tons per year or would result in the emission of a hazardous air pollutant, must obtain a permit from the Department prior to the construction or modification. Applications for permits shall be filed not less than sixty days prior to undertaking a continuous program of construction or modification.

20.02 In the event of an emergency, upon oral or written request, the Department may grant temporary permission to commence construction prior to the filing of an application for a permit. Confirmation of the permission shall be made in writing by the Department. The permission shall expire within thirty days of the date of the written confirmation if the requestor has not filed an application for a permit in accordance with the provisions of subsection 20.04. The permission shall be deemed revoked in the event that the application for a permit is denied.

20.03 If a source consists of more than one unit, a separate permit must be obtained for each unit which is not substantially interrelated with another unit. A common connection leading to ductwork, pollution control equipment or a single stack shall not, by itself, constitute a substantial interrelationship.

20.04 Any person seeking a permit shall do so by filing a written application with the Director. Applications shall:

A. be made on forms furnished by the Department.

B. state the applicant's name and address.

C. state the date of the application.

D. describe the nature and quantities of any air contaminants the completed construction or modification will emit.

E. state the exact location of the proposed construction or modification.

F. be accompanied by:

1. process flow sheet, including a material balance, of the processing and combustion plant(s).

2. a description of the equipment to be used for air pollution control, including a process flow sheet or, if the Department so requires, layout and assembly drawings.

3. a description of the equipment or methods to be used for emission measurement.

4. such information as the Department may require relating to the environmental impact of the proposed source or modification if the Department determines that the granting of the permit might constitute a major action significantly affecting the quality of the human environment.

G. state the expected normal operating schedule of the completed construction or modification in terms of hours per day, days per week, weeks per month and months per year.

H. contain such other relevant information as the Department may reasonably require.

I. be signed by the applicant or his authorized representative.

20.05 Any records or other information furnished to the Department relating to processes or production techniques unique to the applicant and considered to be confidential shall be clearly labeled as being confidential by the applicant and shall not be made a part of any public record unless the applicant expressly agrees to its publication.

20.06 The Department shall:

A. make available for public inspection a list of all applications for permits.

B. allow all interested persons fifteen days from the date an application is filed to submit written comments on the application.

C. mail written notice of the action taken on a permit application to those persons who submitted written comments on the application.

20.07 The Department shall within thirty days after the filing of an application for a permit either grant the permit, grant the permit subject to conditions or deny the permit. If the Department denies a permit or grants the permit subject to conditions, the Department shall notify the applicant by certified mail of the action taken and the reasons therefore. If the Department grants a permit, the Department shall mail the permit to the applicant by certified mail.

20.08 The Department may deny any application for a permit if:

A. it appears that the construction or modification will not meet applicable regulations.

B. the new source will emit a hazardous air pollutant or air contaminant in excess of a federal standard of performance or a regulation of the Board.

C. it appears that the new source may result in any ambient air standard of the federal government or of the Board being exceeded.

D. any provision of the Air Quality Control Act will be violated.

E. it appears that the construction of the new source will not be completed within a reasonable time.

20.09 The issuance of a permit does not relieve any person from the responsibility of complying with the provisions of the Air Quality Control Act and any applicable regulations of the Board.

20.10 The Department may impose any reasonable conditions upon a permit including a schedule of construction and conditions requiring the source to be provided with:

A. sampling ports of a size, number and location as the Department may require.

B. safe access to each port.

C. utilities for operating sampling, testing, monitoring and recording equipment.

D. instrumentation to monitor and record emission data.

E. any other reasonable sampling and testing facilities.

20.11 The Department may grant a conditional permit subject to the later filing of information required by the Department relating to the environmental impact of a proposed source or modification if the Department has otherwise determined that the source or modification will meet all applicable regulations and will not cause any applicable ambient air standard to be exceeded. The Department shall either grant or deny the permit finally within thirty days of the date the information is filed. The information shall be filed within such time as the conditional permit may require.

20.12 The Department may cancel a permit if the construction is not commenced within one year from the date of issuance, if during the construction, work is suspended for a total of one year or if the construction plans or designs have been changed substantially from the information supplied in subsection 20.04 without the permittee obtaining the prior approval of the Department.

20.13 Thirty days prior to the cancellation of a permit, the Department shall notify the permittee by certified mail of the impending cancellation. The Department shall notify the permittee by certified mail of the cancellation of his permit and the reasons therefore. A permittee whose permit has been canceled may request a hearing before the Board. The request must be made in writing to the Director within thirty days after notice of the Department's action has been received by the permittee. Unless a timely request for hearing is made, the decision of the Department shall be final.

20.14 If a timely request for hearing is made, the Board shall hold a hearing within thirty days after receipt of the request. The Department shall notify the permittee by certified mail of the date, time and place of hearing. In the hearing the burden of proof shall be upon the permittee. The Board may designate a hearing officer to take evidence in the hearing. Based upon the evidence presented at the hearing, the Board shall sustain, modify or reverse the action of the Department.

20.15 Any owner or operator subject to this section shall notify the Department in writing of the:

A. anticipated date of initial startup of a source not more than thirty days nor less than seven days prior to the date.

B. actual date of initial startup of a source within seven days after the startup date.

20.16 Within thirty days after achieving the maximum production rate at which the new source will be operated but not later than seventy five days after initial startup of the new source, the owner or operator of the new source shall conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of the test. The owner or operator of a new source may petition the Department to extend either time period.

20.17 Upon application by any person or group of persons, the Board may exempt from any or all of the requirements of this section any source or class of sources which the Board finds will not unreasonably degrade the ambient air. Exemptions may be granted only at public meetings of the Board. No exemption may be granted for a source or class of sources if the source or any one of the sources within the class, if it were uncontrolled, would result in an emission of an air contaminant greater than twenty-five tons per year. Exemptions may be revoked by the Board at any public meeting.

20.18 "Construction" as used in section 20.01 means fabrication, erection, installation or the changing of the operating location of a stationary source.

20.19 If for any reason the person who is the owner or operator of a stationary source for which an authority to construct permit has been issued is required to obtain another authority to construct permit, then any information submitted to obtain the prior permit may, if still valid, be applied to the permit under consideration.

20.20 This section does not apply to stationary sources, the on site construction or modification of which was initiated prior to September 1, 1973.

ALBUQUERQUE

49-1979 Motor Vehicle Emissions Control Ordinance

PROVIDING FOR THE CONTROL AND PROHIBITION OF AIR POLLUTANT EMISSIONS FROM MOTOR VEHICLES ABOVE CERTAIN LEVELS AS DETERMINED BY THE BOARD; REQUIRING ANNUAL INSPECTION OF MOTOR VEHICLES; PROVIDING FOR EXEMPTIONS OF CERTAIN CLASSES OF VEHICLES; REQUIRING INSPECTION FEES; ESTABLISHING THE AUTHORITY FOR ISSUING PERMITS FOR FLEET EMISSIONS INSPECTION STATIONS; PROVIDING FOR THE PROMULGATION OF RULES AND REGULATIONS FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS ORDINANCE; AND PROVIDING PENALTIES FOR THE FOR THE VIOLATION OF THE ORDINANCE.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Short Title. This ordinance may be cited as the Motor Vehicle Emissions Control Ordinance.

Section 2. Legislative Findings and Purpose of Ordinance.

A. The Council finds and declares that air pollution constitutes a significant detriment to public health and welfare; that exhaust emissions from motor vehicles are the major source of air pollution in Albuquerque.

B. The Council further finds and declares that an effective system of periodic motor vehicle inspection and maintenance and consumer education will reduce the level of vehicular air pollution and provide motorists with objective maintenance information regarding their vehicles.

C. The Council further finds and declares that the federal government has mandated to the several states and municipalities that the ultimate responsibility for periodic motor vehicle inspection and maintenance, and that legal authority for the adoption of such an inspection and maintenance program must be in existence by July 1, 1979.

D. The purpose of this ordinance is to protect the health and welfare of the citizens of Albuquerque and Bernalillo County, to provide for the control and prohibitation of air pollutant emissions from motor vehicles above certain levels as determined by the Board and to require annual inspection of certain motor vehicles in order to comply with the Federal Clean Air, as amended.

Section 3. Definitions.

A. "Approved exhaust gas analyzer" means a device for sensing the amount of air contaminants, including carbon monoxide and hydrocarbons, in the exhaust emissions of a motor vehicle. For the purposes of this ordinance, this shall mean analyzing devices of the nondispersive infrared type or any other analyzing devices that provide equal or greater accurancy as approved by the Department.

B. "Carbon monoxide" means the chemical compound containing one atom of carbon and one atom of oxygen.

C. "Department" means the Alburquerque Environmental Health Department.

D. "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream of the exhaust port (s) of any motor vehicle engine.

E. "Exhaust emissions control device" means equipment designed by the manufacturer for installation on a motor vehicle for the purpose of reducing pollutants emitted from the vehicle, or a system or engine modification on a motor vehicle which causes a reduction of pollutants emitted from the vehicle.

F. "Hydrocarbons" means that gaseous air contaminant, expressed as methane equivalents.

G. "Independent contractor" means any person, partnership or corporation with whom the City may enter into an agreement providing for construction, equipping, maintenance, personnel, management and operation of official emissions inspection stations.

H. "Model year" means either (1) the annual production period of a motor vehicle as designated by the calendar year in which such period ends,. (2) the date of actual manufacture, or (3) in the case of any vehicle manufactured in two or more stages, the year of manufacture shall be the date of completion of the chassis.

I. "Motor vehicle" means any self-propelled, gasoline fueled or gasoline mixed fueled vehicle with four or more wheels in contact with the ground and weighing more than 680 kg (1500 pounds) but less than 3856 kg (8501 pounds) gross vehicle weight, and built on a chassis having a rated capacity of less than one (1) ton, registered or to be registered in this state and used upon the public highways of Bernalillo County for the purpose of transporting persons or property.

J. "Pass-fail criteria" means those standards approved and adopted in regulations by the Board which specify the maximum allowable motor vehicle exhaust emissions which may be emitted into the atmosphere from any opening downstream of the exhaust port(s) of any motor vehicle engine.

K. "Person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representatives, agents or assigns.

L. "Certificate of inspection" means a document containing a certified statement that the vehicle described therein is either in compliance or not in compliance with the requirements of this ordinance and the regulations adopted pursuant to this ordinance.

M. "Board" means the Albuquerque-Bernalillo County Air Quality Control Board.

Section 4. Creation of an Inspection-Maintenance Program.

A. The Albuquerque-Bernalillo County Air Quality Control Board, in cooperation with the City of Albuquerque and Bernalillo County, shall design and adopt a program for the mandatory annual exhaust emission inspection of certain motor vehicles registered in Albuquerque and Bernalillo County including all motor vehicles owned by government entities and public utilities and motor vehicles which may be registered elsewhere but which are permanently assigned in Albuquerque.

B. The exhaust emissions inspection of each motor vehicle shall include all of the following:

1. A determination, according to test criteria established by the Board Regulations, that the vehicle's engine is functioning correctly with respect to its level of exhaust emissions.

2. A measurement of the vehicle's hydrocarbon and and carbon monoxide emissions using an approved exhaust gas analyzer or other device as approved by the Department to sample the vehicle's exhaust.

3. A measurement of noise levels of all vehicles subject to this ordinance to determine compliance with Ordinance No. 21-1975.

4. Where applicable, a written indication to the vehicle's owner of the probable cause of any malfunction or misadjustment responsible for the vehicle's failure to comply with the pass-fail criteria developed pursuant to this ordinance.

C. A finding of noncompliance with the applicable noise levels prescribed under Ordinance No. 21-1975 shall not enter into the determination of a motor vehicle's compliance or noncompliance with the pass-fail criteria adopted pursuant to this ordinance. Penalties for noncompliance with the applicable noise levels shall be limited to those set forth in Ordinance No. 21-1975.

D. Any person whose vehicle has been inspected at an official emissions inspection station shall, if such vehicle was not found to comply with the pass-fail criteria, have the vehicle repair undertaken at the owner's expense, and have the right within thirty calendar days of the initial exhaust emissions inspection, but not thereafter, to return such vehicle for one reinspection, without charge.

Section 5. Duties and Powers of the Board.

A. The Board, after notice and public hearings, in accordance with Section 6-16-5 of the Air Quality Control Board Ordinance, shall adopt such rules and regulations as it deems necessary for the implementation, administration, regulation and enforcement of the provisions of this ordinance.

B. In developing regulations for the implementation and enforcement of this ordinance, the Board shall give the weight it deems appropriate to all the relevant facts and circumstances including but not limited to:

1. the make, model, year and economic value of the motor vehicle;

2. the cost of repair and maintenance of automobile engines and exhaust emissions control devices;

3. the ambient concentrations of air contaminants in the County of Bernalillo;

4. the character and degree of injury to, or interference with health, welfare, visibility and enjoyment of property caused by exhaust emissions;

5. the public interest, including social and economic costs of air pollutants and their control;

6. the requirements of the Federal Clean Air Act, as amended; and

7. the requirements of the State Air Quality Control Act.

C. The Board shall provide by regulation, a schedule of fees for emissions inspection certificates and fleet emissions control facility certificates, which fees shall be sufficient to meet but shall not exceed the estimated cost of the initiation and operation of the program of inspection of motor vehicles, administration of the ordinance and issuance of appropriate inspection certificates, including the costs (not to exceed ten percent of the total fee) incurred by the governmental agency administering the program.

Section 6. Powers and Duties of the Department.

A. The Department shall establish criteria for the operation of one or more official emissions inspection stations for the testing and determination of compliance of motor vehicles as required by federal, state or local laws or regulations.

E. The Department shall issue permits for fleet emissions inspection stations in accordance with regulations adopted by the Board.

Section 7. Inspection Criteria.

A. The Board shall provide by regulation for pass-fail criteria. The Board shall update the pass-fail criteria as it deems necessary to meet the purposes of this ordinance.

B. Notwithstanding any other provisions of this ordinance the Board, by regulation, shall waive the requirement of compliance with the pass-fail criteria in those classes of cases which it determines in light of the considerations set out in Section 5(B) of this ordinance would present prohibitive repair and maintenance costs.

C. In no event shall the Board require compliance with the pass-fail criteria where the following conditions are met:

1. A motor vehicle has received repairs costing at least $200 or 15% of the value of the vehicle, whichever, is lower; provided that costs of replacing any exhaust emissions control device which has been removed or rendered inoperable by any person shall not be included in calculating the cost of repairs;

2. Such repairs were made in an attempt to bring the motor vehicle into compliance with the pass-fail criteria; and

3. The motor vehicle requires further repairs in order to bring it into compliance.

Section 8. Fleet Inspection Provisions.

A. The Board shall adopt regulations providing for the permitting of fleet emissions inspection stations. A fleet shall consist of at least twenty-five vehicles owned by a single person.

B. In developing regulations for the qualification of a person for a fleet emissions inspection station permit, the Board shall consider criteria including but not limited to the following:

1. Possession of an approved exhaust gas analyzer and the tools and equipment necessary to conduct the required emissions inspections; and

2. Other criteria as deemed necessary by the Board in order to further the public interest and carry out the purposes of this ordinance.

C. The Board shall adopt regulations providing for the submission by holders of fleet emissions inspection permits of such information as they deem reasonably necessary to carry out the purposes of this ordinance.

D. The Department, upon notice and an opportunity for a hearing, may revoke and require the surrender and forfeiture of any Fleet Emissions Inspection Station Permit and Certificates of Inspection of the fleet inspection station permittee if it finds that such station is not operated in accordance with this ordinance of the rules and regulations adopted by the Board or the holder of said permit has failed or refused to submit any required records or documentation.

Section 9. Contract Authorization.

A. The governmental agency administering the program may enter into an emissions inspection agreement with one or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance, and operation of a network of mandatory exhaust emissions inspection facilities for conducting vehicle emissions tests, in such numbers and locations as may be required to provide vehicle owners reasonable convenient access to inspection facilities for the purpose of complying with this ordinance and the rules and regulations adopted pursuant hereto.

B. The governmental agency administering the program shall not enter into an emissions inspection agreement with any independent contractor who:

1. Is engaged in the business of manufacturing, selling, maintaining or repairing vehicles and vehicle replacement or repair parts in this state, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor.

2. Does not have the capability, resources, or technical and management skill to adequately construct, equip, operate and maintain the number of official emissions inspection stations contracted for.

C. All persons employed by said independent contractor in performance of all emissions inspection agreement shall be employees of the independent contractor and not of the governmental agency administering the program.

D. No employee of said independent contractor shall wear any badge, insignia, patch, emblem, device, word or series of words which would tend to indicate that such person is employed by the City. Employees of the independent contractor are specifically prohibited under this subsection from wearing the flag of this state, the words "State of New Mexico," the words "City of Albuquerque," the words "Official Emissions Inspection Program" or any similar emblem or phrase.

E. Any emissions inspection agreement entered into pursuant to this ordinance shall contain, in addition to any other provisions deemed necessary by the Department for administration or enforcement of the emissions inspection agreement, provisions relating to the following:

1. A contract term of not more than ten years with equitable compensation to the contractor if the provisions of this ordinance are repealed.

2. That nothing in the agreement shall require the City to purchase any asset or assume any liability of such agreement or contract if it is not renewed.

3. Minimum requirments for adequate staff, equipment, management, hours of operation and place of operation of official emissions inspections stations.

4. The submissions of such reports and documentation concerning the operation of official emissions inspection stations as the Board, by regulation, deems reasonably necessary to carry out the purposes of this ordinance.

5. Surveillance by the Department to ensure compliance with vehicular emissions standards, procedures, rules, regulations and laws.

Section 10. Acquisition of Property: Emissions Inspection Certificates are Property of City.

A. The City may acquire by purchase, donation, dedication, or other lawful means any special equipment, tools, materials or facilities needed to adequately administer, investigate or enforce the provisions of this ordinance or the regulations adopted pursuant hereto.

B. Exhaust emission Certificates of Inspection are the property of the City of Albuquerque until such time as they are affixed to properly inspected vehicles.

Section 11. Improper Representation.

A. No person shall represent any place to be an official motor vehicle or fleet emissions inspection station unles it has been established and is operated under a valid contract, or permit issued by the Department.

B. A Certificate of Inspection shall not be issued or affixed to any vehicle except at an official motor vehicle or fleet emissions inspection station established and operating under a valid contract or permit issued by the Department. All such certificates shall be serially numbered and shall be accounted for.

Section 12. Falsification of Certificates.

A. No person shall make, issue or knowingly use any imitation or conterfeit of an official Certificate of Inspection.

B. No person shall display or cause to be displayed upon any vehicle any Certificate of Inspection knowing it to be imitation or conterfeit or issued for another vehicle or issued without an inspection having been made.

Section 13. Demand or Collection of Improper Fee.

No person shall demand or collect a fee for the inspection of a vehicle other than the fee fixed by the Board for the inspection of vehicles of the same class.

Section 14. Compliance with Inspection-Maintenance Program Required.

Except as otherwise provided in this ordinance, no person shall fail to comply with the Inspection-Maintaince program developed and adopted by the Board.

Section 15. Enforcement. Nothing in this ordinance shall be construed to prevent the Board or the Department from utilizing any other enforcement mechanics granted to them pursuant to Section 6-16-11 and 6-16-13 of the Air Quality Control Board Ordinance.

Section 16. Penalties. Any person who violates any provisions this ordinance or any rule or regulation adopted pursuant hereto shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than three hundred dollars ($300) or be imprisoned for not more than ninety (90) days or shall be punished by both fine and imprisonment.

Section 17. Effective Dates. The periodic Motor Vehicle Emissions Inspection-Maintaince Program shall commence on or before January 1, 1982, for all motor vehicles subject to the provisions of this Ordinance. This ordinance shall be rendered null and void on December 31, 1987, unless extended by ordinance prior to December 31, 1987.

Section 18. Severability Clause. If any section, subsection, sentence, clause, word or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid by any court of competent juridsiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 19. Compilation. This ordinance shall be incorporated in and compiled as a part of the Revised Ordinances of Albuquerque, New Mexico, 1979.